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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE

UNITED STATES

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REGINA CASH,

Petitioner

v.

NADA RETIREMENT ADMINISTRATORS, INC.,
Dba NADART,

Respondent.

One Petition for a Writ of Certiorari to The United States Court Of Appeals For the Sixth Circuit

# PETITION FOR WRIT OF CERTIORARI

REGINA CASH
Petitioner Pro Se
1595 Patrick Mill Place
Buford, Georgia 30518
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## QUESTION PRESENTED FOR REVIEW

Was Petitioner, as a claimant to her deceased father's 410(k) plan, entitled as a matter of law under ERISA to present her evidence of forgery and evidence of Respondent's failure to follow its own contractual obligations regarding determination of beneficiaries to the finder of fact below?

## PARTIES TO PROCEEDINGS

Petitioner Regina Cash: Plaintiff- Appellant below

Kevin Cash: Plaintiff below

Alfred Cash III: Plaintiff below

Doug Cash: Plaintiff below

Respondent NADA Retirement Administrators, Inc., dba NADART: Defendant-Appellee below

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The decision of the United States Court of Appeals for the Sixth Circuit is unreported and reproduced in the Appendix.

The decision of the United States District Court of the Western District of Tennessee is also unreported and reproduced in the Appendix.

## JURISDICTION

The Court of Appeals' Order was filed on March 13, 2008. Federal court jurisdiction arises under ERISA.

## STATEMENT OF THE CASE

Petitioner filed this action in the United States District Court for the Western district of Tennessee under the Employee Retirement Income Security Act of 1974 (ERISA), seeking to recover the proceeds of a 401(k) plan from the Defendant/ Respondent NADA Retirement Administrators in this Petition. These proceeds were improperly distributed through the Probate Court of Shelby County Tennessee. First, to an illegitimate child that has to this day still not been legitimated through DNA, second, the beneficiary form that was presented was not the beneficiary form required by the owner of the account (NADART) and in addition there was no account number to identify the account on this document and lastly the document contained a superimposed signature of the decedent, wherein the Petitioner was denied the opportunity to properly present proof of in the lower court. Probate Court of Shelby County Tennessee moved to distribute the proceeds of the 401(k) plan based solely on the fraudulent document without properly hearing disputing testimony or evidence against this document.

The United States District Court dismissed the claims of all plaintiffs for lack of subject matter jurisdiction, and the Petitioner appealed to the United States Court of Appeals for the Sixth Circuit. The Court of Appeals affirmed the decision of the United States District Court, and this Petition followed.

## ARGUMENT

1. **According to the Respondent's own procedures for proper disbursement of proceeds, each participant should execute a form furnished by the Plan Originator or Plan Administrator designating a beneficiary or beneficiaries.**

In this case, the Respondent clearly did not follow their own procedures according to NADART Salary Deferral 401(k) Profit Sharing Plan governed by ERISA 29 U.S.C.S. § 1104(a)(1)(D), that prevented them from allowing a form that did not belong to the plan originator or plan administrator to be accepted for naming a beneficiary. Second, this document did not contain a social security number identifying this account until about 4 days after the death of the participant nor did it contain a plan ID number identifying this account. Several employees from Schilling Lincoln Mercury namely Wayne Williamson, Vice-President/ General Manager, and Lisa Paton, Former Office Manager, in a sworn deposition admitted to using a questionable form that did not belong to their

plan originator or plan administrator to name said decedent's beneficiary and that the form did not contain the social security number until about 4 days after the death of the participant and contained four different handwritings on the particular document. Petitioner obtained expert forensic evidence that proved the signature did not originate on the document in question which makes it superimposed from an unknown document. The forensic expert (Thomas W. Vastrick) was in Shelby County Probate Court and ready to testify and was denied the opportunity neither was his affidavit nor findings allowed as evidence. Shortly after the death of the participant, Marie Washington (Attorney for James Cash, brother of decedent) neglected to forward the proper IC-10 forms to the adult children, that were provided to her by NADART's investment choice manager, James Apistolas, to perfect their claim, the proper form was only provided to the illegitimate child. Thereafter, our former counsel Julian T. Bolton, requested NADART to fax to his office the IC-10 forms for the adult children to perfect their claim. The forms were completed by the adult children (the Petitioners) and returned, to no avail the proceeds were not released to the heirs, but

instead to the beneficiary named on the fraudulent document.

The form used to purport these proceeds was significantly different from the standard form used by NADART, which bears their name and logo, to designate beneficiaries. The beneficiary form used constituted fraud upon the court with relief being granted against the judgment which was referred to in Hazel-Atlas Glass co. v. Hartford-Empire Co.; 322 F.S. 238, 244 (1944). Lisa Patton, under oath attested that only one hand writing on the beneficiary form that contained 4 different handwritings belonged to her. Simply, had NADART followed their own governing document plan and not allowed this fraudulent beneficiary form to be used as designating a beneficiary, Petitioners would not have been violated and robbed of their rightful inheritance to the proceeds from their father's 401(k) and profit sharing plan.

## REASONS FOR GRANTING THE WRIT

Petitioner sought to present evidence below that the proceeds of the 401(k) plan had been distributed pursuant to a document that had been fraudulently altered, and that the proceeds had been distributed in violation of Respondent's own contractual obligations. Petitioner had never been given the opportunity to present this evidence.

If there is not better protection in the courts for 401(k) plans, then everyone's plan is in jeopardy.

## CONCLUSION

For these reasons, Petitioner respectfully requests that the United States Supreme Court grant her Petition for a Writ of Certiorari.

Dated: August 4th, 2008. REGINA CASH

By _____
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770-831-7511

App. 1

United States court of Appeals
For the Six the Circuit

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No. 07-5711

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REGINA CASH; ALFRED CASH III; DOUG CASH,

Plaintiffs,

Versus

NADA RETIRMENT ADMINISTRATORS, INC., dba NADART,

Defendant-Appellee.

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Appeal from the United States District Court for the Western District of Tennessee

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(Filed March 13, 2008)
ORDER

App. 2

Before: KEITH, DAUGHTRY, and ROGERS, Circuit Judges.

Regina cash, a pro se Tennessee resident, appeals a district court order dismissing her complaint for lack of subject matter jurisdiction in this case brought under the Employee Retirement Income Security Act of 1974 (ERISA) and asserting state law probate claims. The case has been referred to a panel of court pursuant to Rule 34(j)(1), rules of Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed.R.App.P.34(a).

Cash and her three adult siblings filed this complaint in the district court, alleging that the state probate court Shelby County, Tennessee, improperly disbursed funds that their deceased father held in a 401(k) account and part of his estate. Cash complained that she and her siblings were improperly denied the opportunity to present evidence that the beneficiary election document naming their minor sibling as the sole beneficiary was fraudulently executed. The probate court determined that the beneficiary form was properly executed and indicated the deceased's true intent, during his lifetime, for the funds to be distributed to the minor. The probate court subsequently held a hearing on Cash's

motion to set aside the order, but denied the motion in an order issued February 2, 2002.

Two years later, Cash and her adult siblings brought his complaint in federal district court asking the court ot review the evidence submitted to the Shelby court propert court and grant them the "present day value of the Plan, plus prejuedment interests, and the costs of the suit." The defendant filed a motion for summary judgment on the basis that federal review of the state court decision was barred under the doctrin of *res judicata*. Upon review, the district court determined that the court lacked subject matter jurisdiction under the *Rooker-Feldman* doctrine. *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462. 483n.16(1983); *Rooker v. Fidelity Turst Co.*, 263 U.S. 413, 415-16(1923). (Att. 2).

Cash agrues on appeal that she did not have a "full and fair opportunity to litigate the issue" decided by the state court (Appellant Brief at 1) and she repeats the argument heard in state court that the form provided by the decedent's employer to designate the beneficiary of the funds was invalid. Cash accuses the decedent's employer and administrator of the funds of improperly completing the form after

her father's death by filling in his social security number. She also alleges that the decedent's signature on the form "originated on some document other that the form to which it is now affixed." (Appellant Brief at 2).

We affirm the district court's judgment for the reasons stated by the district court. We review *de novo* a district court's dismissal of a case on the grounds that the *Rooker-Feldman* doctrine deprived it of subject matter jurisdiction. *See McCormick v. Braverman*, 451 F.3d382, 389(6th Cir.2006), cert denied, 128S.Ct.41(2007). Under the *Rooker-Feldman* doctrine, federal district courts lack jurisdiction to "engage in appellate review of state court proceedings or to adjudicate claims 'inextricably intertwined' with issues decided in state court proceedings." *See Peterson Novelties, Inc. v. City Berkley*, 305 F.3d 386, 390 (6th Cir. 2002). The Supreme Court is vested with exclusive jurisdiction over appeals from final state-court judgments. *Lance v. Dennis*, 546 U.S. 459(2006).

The *Rooker-Feldman* doctrine prevents the lower federal courts from exercising jurisdiction over cases brought by "state-court losers" challenging state-court judgments rendered before the district court proceedings commenced.

*See Abbott v. Michigan*, 474 R.3d324, 328(6th Cir2007)(quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544U.S.280, 284 (2005)). Thus, in the limited circumstances in which a plaintiff complains of an injury directly caused by a state-court judgment, if the plaintiff believes that the state court did not give him or her a reasonably opportunity to pursue a claim, the proper course of action is to appeal the judgment through the state court system and then to seek review by writ of certiorari from the U.S. Supreme Court. *Id.* The doctrine is applied "only when a plaintiff complains of injury from the state court judgment itself." *Id.* (quoting *Coles v. Granville*, 448 F.3d 853, 858 (6th Cir. 2006)). If the source of the injury is the state court decision, then the Rooker Feldman doctrine prevents the district court from asserting jurisdiction. *Id.*

In this case, the source the Cash's injury is the judgment of the state court that deprived her of the possibility that she would become a beneficiary of her deceased father's 401(k) funds. Her complaint is a classic example of a "state court loser" challenging a state court's judgment rendered before the district court proceedings were initiated. Therefore, the Supreme Court has exclusive jurisdiction to hear Cash's arguments

that the state court did not provide her an adequate opportunity to present evidence that she believes supports her case. The fact that her claims focus on adverse procedural and evidentiary rulings in the state's probate court is not significant, because it is the nature and effect of the process that is controlling. *See Raymond v. Moyer*, 501 F.3d 548, 553-54 (6th Cir. 2007) (citations and quotations omitted). Clearly, Cash's claims are inextricably intertwined" with decision issued by the state probate court, and to grant her the relief she requests would, in essence, reverse the declaration by the state court that ownership of the 401(k) funds rightly belong to her minor sibling. *See Peterson Novelties*, Inc., 305 F.3d at 390.

Accordingly, the district court's judgment is affirmed. Rule 34(j)(2) (C) Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT
/s/Leonard Green
Clerk

App. 7

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
TENNESSEE WESTERN DIVISION

CASE NO. 05-2917

KEVIN CASH, REGINA CASH, ALFRED CASH, III AND DOUG CASH,

Plaintiffs,

v.

NADA RETIREMENT ADMINISTRATORS, INC. d/b/a NADART,

Defendant/

ORDER DISMISSING CASE FOR LACK OF SUBJECT MATTER JURISDICTION

The Plaintiffs, Kevin Cash, Regina Cash, Alfred Cash, III and Doug Cash, who are proceeding pro se, brought this action against the Defendant, NADA Retirement Administrators, Inc. d/b/a NADART ("NADA"), under the Employee Retirement Income Security Act of 1974, 29 U.S.C. section 1101 et seq. ("ERISA") based upon the theory of improper distribution of

retirement benefits. Before the court is the Defendant's motion for summary judgment pursuant to Rule 56, Fed. R. Civ. P. The Plaintiffs have responded, and this motion is now appropriate for disposition. For the resons set forth below, this case is DISMISSED, albeit for a different reason.

Background

The following facts are undisputed unless noted. The Plaintiffs are the adult children of decedent, Alfred Cash, Jr. (Def.'s Statement of Undisputed Material Facts in Supp. Mot. Summ. J.¶ 1) ("Def.'s Facts"). During his lifetime, Alfred Cash, Jr. worked for Shcilling Lincoln-Mercury in Memphis, Tennessee and at some point he became vested in his employer's profit sharing plan ("the Plan"), which eventually rolled over into a 401(k) plan operated by NADA.(Def's Facts ¶¶ 2,4). In 1990, Alfred Cash, Jr. listed his son, Justin McLaurin, as his beneficiary under the Plan. (Def.'s Facts ¶ 3).[1] Alfred Cash Jr. died in January 2000. (Def's Facts ¶5).

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[1]The Plaintiffs dispute that their father listed Justin McLaurin as his beneficiary, claiming the document purportedly containing McLaurin's name and their father's signature is a fraud and a forgery. (Pls.' Statement of Disputed Material Facts in Resp. Mot. Summ. J. at 1-9).

On March 14, 2000, NADA informed Plaintiffs, Justin McLaurin, and the estate of properly completed NADART beneficiary form from Alfred Cash, Jr." and that it therefore "intended to distribute the proceeds of his account to his children Alfred Cash, III, Doug Anthony Cash, Kevin Durrell Cash, Justin A. McLaurin and Regina T. Cash." Def's Facts ¶ 7). Thereafter, counsel for the decedent's estate and counsel for Justin McLaurin sought and obtained a restraining order in the Shelby county, Tennessee Probate Court prohibiting NADA from disbursing the funds as stated in its notice to the parties. (Def's Facts ¶9).

On July 27, 2000, Shelby County Probate Court Judge Robert Benham conducted a hearing to determine the "proper distribution of the proceeds of the decedent's 401(k) account." Def's Facts¶11).[2] After the hearing, Judge Benham issued an order finding that while not complying the technical requirements of the Plan's election

[2]At the hearing, Justin McLauring and the decedent's estate were represented by counsel. In addition, the Plaintiffs were present but were without counsel. (Def's Facts ¶ 12).

of beneficiary procedures, the decedent had clearly indicated his desire for the proceeds of his account to go only to his son, Justin McLaurin. (Def's Facts ¶ 12). Judge Benham concluded in his order that. "[t]he beneficiary of the decedent's Schilling Motors, Inc. Profit Sharing Plan is Justin Austin McLaurin, a minor child, the named beneficiary under the Plan." (Id.).[3]

Disagreeing with Judge Benhams's ruling, the Plaintiffs retained counsel and sought to have the Shelby County Probate Court's order "set aside." (Def's Facts ¶ 13). One February 6, 2002, Judge Benham denied the Plaintiff's motions to set aside and reaffirmed his original ruling. (Def's Facts ¶ 14).[4] On December 9, 2005, some three years later, the Plaintiff's filed the instant action. (Def's Facts ¶17). In their complaint, the Plaintiffs do not mention any of

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[3] In his order, Judge Benham directed NADA to deposit the Plan's proceeds "into an interest bearing account in Shelby County, Tennessee." (Def's Facts ¶ 12).

[4] "[T]he [Probate] Court denied petitioners' Motion to relitigate the full trial because petitioners had voluntarily waived their right to counsel and all proof and issues wre fully litigated at the July 2000 hearing." (Def.'s Facts ¶ 15).

the underlying proceedings in Shelby County Probate Court. (Id. (citing Compl. At ¶ 2)). Instead, they characterize their case as involving "the proper disbursement of funds held in a 401(k) account by NADART for Alfred Cash, Jr..." (Id.).

## STANDARD OF REVIEW

Rule 56( c) provides that a

> Judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is not genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

Fed.R.Civ.P.56( c); see Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 2552 (1986); Canderm Parmacal, Ltd. V. Elder Parms., Inc., 862F.2d 597,601 (6th cir. 1988). In reviewing a motion for summary judgment, the evidence must be viewed in the light most favorable to the

nonmoving party. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574,587, 106 S. Ct. 1348, 1356 (1986). When the motion is supported by documentary proof such as depositions and affidavits, the nonmoving party may not rest on his pleadings but, rather, must present some "specific facts showing that there is a genuine issue for trial." Celotex 477 U.S. at 324, 106 S. Ct. at 2552. It is not sufficient "simply [to] show that there is some metaphysical doubt as to the material facts." Matsushita Elec. Indus. Co., 475 U.S. at 586, 106 S. Ct. at 1356. These facts must be more than scintilla of evidence and must meet the standard of whether a reasonable juror could find a preponderance of evidence that the nonmoving party is entitled to a verdict. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252, 106 S. ct. 2505, 2512 (1986). Summary judgment must be entered "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex, 477 U.S. at 322, 106 S. Ct. at 2552. In this circuit, "this requires the nonmoving party to 'put up or shut up' [on] the critical issues of [his] asserted causes of action." Lord v. Saratoga Capital, Inc., 920 F. Supp. 840, 847 W.D. Tenn. 1995) (citing Street v. J.C. Bradford & Co., 886 F.2d 1472, 1478 (6th Cir.

1989)). Finally, the "judge may not make credibility determinations or weigh the evidence." Adams v. Metiva, 31 F.3d 375, 379 (6th Cir. 1994).

## ANALYSIS

The Defendant contends it is entitled to judgment as a matter of law under the affirmative defense of res judicata. The Plaintiffs, proceeding without counsel, have responded to the Defendant's motion in a rambling nine-page document outlining their view of the case, to which they attach a number of documents. The Plaintiffs do not, however, in any meaningful way respond to the Defendis res judicata argument.

Because this Court concludes that it lacks subject matter jurisdiction over this dispute, it declines to decide this lawsuit on the basis of res judicata.

### I. SUBJECT MATTER JURISDICTION

Although not presented as an issue by either party, the Court has inherent authority to dismiss a case based on a lack of subject matter

jurisdiction. See Fed. R. Civ. P. 12(h)(3) ("Whenever it appears to suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action".) (emphasis added).

Under the Rooker-Feldman doctrine, federal courts lack subject matter jurisdiction to review state court judgments. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482-83, 103 S. Ct. 1303 (1983); Rooker v. Fid. Trust co., 263 U.S. 413, 414, 44 S. Ct. 149 (1923). In Exxon Mobil corp. v. Saudi Basic Indurstries, Corp., 544 U. S. 280, 284, 125 S. Ct. 1517, 1521 (2005), the United States Supreme Court, noting the basis of the Rooker-Feldman doctrine, recalled

> That appellate jurisdiction to reverse or modify a state-court judgment is lodged, initially by § 25 of the Judiciary Act of 1789, 1 Stat. 85, and now by 28 U.S.C. § 1257, exclusively in this Court. Federal district courts... are empowered to exercise original, not appellate jurisdiction. Plaintiffs in Rooker and Feldman had litigated and lost in state court. Their federal complaints, we observed, essentially invited federal courts of first

> instance to review and reverse unfavorable state-court judgments. We declared such suits out of bounds, i.e., properly dismissed for want of subject-matter jurisdiction.

The Supreme Court then reaffirmed the core of Rooker-Feldman, declaring,

> [t]he Rooker-Feldman doctrine, we hold today, is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.

Exxon Mobil Corp., 544 U.S. at 284, 125 S. ct. at 1521; see also Peterson Novelties, Inc. v. Berkley, 305 F.3d 386, 391 (6th Cir. 2002) ("Where federal relief can only predicated upon a conviction that the state court was wrong, it is difficult to conceive the federal proceeding as, in substance, anything other than a prohibited appeal of the state-court judgment") (quoting Catz v. Chalker, 142 F.3d 279, 293 (6th Cir. 1998)).

In Stemler v. Florence, the Sixth Circuit discussed the "frequent conflation" with the

Rooker-Feldman doctrine and res judicata. 350 F.3d 578, 589 (6th Cir. 2003). There, the court stated the essential difference between the two doctrines:

> In order to determine the applicability of the Rooker-Feldman doctrine, the fundamental and appropriate question to ask is whether the injury alleged by the federal plaintiff resulted from the state court judgment itself or is distinct from that judgment. If the injury alleged resulted from the state court judgment itself, Rooker-Feldman directs that the lower federal courts lack jurisdiction. If the injury alleged is distinct from that judgment, i.e., the party maintains an injury apart from the loss in state court and not "inextricably intertwined" with the state judgment, res judicata may apply, but Rooker-Feldman does not...

Id. (quoting Hutcherson v. Lauderdale County, Tenn., 326F.3d 747,755 (6th Cir. 2003)); see also Thomas v. Eby, 481 F.3d 434, 437-38 (6th Cir.

2007). Finally, in Hutcherson, the court stated that Rooker-Feldman issue should be considered first because "its application strips federal courts of jurisdiction and the ability to hear a res judicata, or other affirmative defense." 326 F3d at 755 (citing Garry v. Geils, 82 F.3d 1362, 1365 (7th Cir. 1996)).

In this case, the Plaintiff brought suit against NADA based on their averment that the Defendant improperly distributed their father's 401(k) proceeds by not including them in the distribution. See (Compl. ¶¶ 12,13). Scpicifically, the Plaintiffs complained that "[a] t the time of decedent's death, there was not a properly executed NADART beneficiary form." (Compl. ¶ 9). In the state court proceedings, the Shelby County Probate Court found, over the Plaintiff's objection and motion for reconsideration[5], that the NADART beneficiary form was properly executed and that Justin McLaurin was the sole beneficiary. The Shelby County Probate Court then ordered NADA to distribute the proceeds of the plan to the "Guardianship Estate of Justin Alan McLaurin..." (Def.'s Facts ex. 10, at 1).

The court finds that the Plaintiff's lawsuit constitutes nothing more than an invitation for appellate review and rejection of the Shelby County Probate Court decision. Here, the

Plaintiffs, the state-court losers, complain that NADA improperly distributed the proceeds of their father's plan. Because NADA was ordered to do so by the state court, the Plaintiff's alleged injury for which they seek relief in federal court stems directly from the effect of state-court judgment. Therefore, the Court lacks subject matter jurisdiction in this case. Exxon Mobil Corp., 544 U.S. at 284, 125 S. Ct. at 1521. Accordingly, this case is hereby DISMISSED with prejudice. See Fed.R. Civ. P. 12(h)(3)

IT IS SO ORDERED this 25th day of May, 2007.

s/ J. DANIEL BREEN
UNITED STATE DISTRICT JUDGE

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[5]The Plaintiffs did not appeal the Shelby court Probate Court's order. (Def.'s Facts ex. 10, at 1).

App. 19

IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

In Re:

ESTATE OF ALFRED CASH, JR.,
Deceased

DOCKET NO. C-1427
Division I

MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING

INTRODUCTION

This is an action under Rule 60.02 of the Tenn. R. civ. P. seeking to set aside the judgment rendered by this Court following the hearing held July 27, 2000, awarding Alfred Cash, Jr's Schilling Lincoln Mecury NADART Salary Deferral 401(k) Profit Sharing Plan to Justin A. McLaurin, as sole beneficiary under the Plan and to grant a new hearing on the matter.

STATEMENT OF FACTS

Alfred Cash Jr. "the Decedent" died in Memphis, Shelby county, Tennessee, on January 14, 2000 at the age of 58 years. (Death Certificate.) the Decedent was survived by four adult children, Alfred Cash III, Doug Cash, Kevin Cash and Regina Cash (Stamps), "the Petitioners" and one minor child, Justin McLaurin. (Petitioner's Motion to Set Aside.)

On January 27, 2000, James Cash, the Decedent's brother, petitioned this Court for the Appointment of Executor for the Estate of Alfred Cash, Jr. (Petition for Appointment of Executor.) This petition was granted and the Administration of the Estate was opened. Among the Decedent's assets, was a Shcilling Lincoln Mercury NADART Salary Deferral 401(k) Profit Sharing Plan, "the NADART Plan" valued at approximately thirty-two thousand, five hundred (32,5000) dollars. (court Order entered October 16, 2000.)

On March 23, 2000, upon notice from the National Automotive Dealers Association (NADA) of the absence of a properly executed beneficiary designation form, Eddie McLaurin, the guardian for the estate of Justin McLaurin, sought and obtained a restraining order preventing NADA from distributing the

NADART Plan funds to the Petitioners. (Joint Motion for Restraining Oder filed March 23, 2000.) A hearing was heald on July 27, 2000, to determine, in part whether the absence of a witness to the Decedent's signature on the designation for was fatal. Entered into evidence, at this hearing, was a form purporting to be a NADART Beneficiary Designation Form signed by the Decedent. (Cort Order entered October 16, 2000.)

The Petitioners were present at this hearing, unrepresented by counsel despite the adive of this honorable court. (Court Ordered entered October 16, 2000.) While the Petitioners had followed the court advice and obtained counsel, they released the same after being advised of the difficulty of proving their suspicions that undue influence had been exerted upon their father in the making of his will.

On October 16, 2000, this court entered its judgment finding that the signature of the Decedent on the Designation of Beneficiary form was undisputed and that there was no formal requirement that the signature be witnessed to affect proper execution. This, this Court found that Justin McLaurin was entitled to the proceed of the NADART plan.

Pending the order of this Court, the Petitioner again retained counsel to investigate the continued rumors of wrongdoing within the distribution of the father's assets. During said investigation, it was discovered that the Designation of Beneficiary Form, presented to this Court, was substantially different than the standard form used by NADART. It was also discovered that Shilling Lincoln Mercury's 401(k) plan was actually administered by First Tennessee Bank at the date noted on the NADART form presented to this court. At which time, the Petitioners filed their first Motion to Set Aside Judgment. Since that time, it has been determined that the signature on the Designation of Beneficiary Form apparently originated on some document other than the form to which it is not affixed. "Vastrick Aff.) Thus, they document received into evidence was a forgery, constituting fraud upon this Court. The Petitioners now seek to have this Court judgment set aside pursuant to Rule 60.02 of the Tenn., R. Civ. P. specifically adopted by the Shelby County Probate Court Under Rule III.

ARGUMENT

I.

JUDGMENT OF THIS COURT PERTAINING TO THE RIGHTS AND OWNERSHIP OF THE NADART PLAN PROCEEDS SHOULD BE SET ASIDE UNDER RULE 60.02 OF THE TENNESSEE RULES OF CIVIL PROCEDURE.

Tennessee specifically provides for relief from judgments or orders which are obtained through fraud. Rule 60.02 of the Tenn. R. civ. P. provides in relative part that:

> On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order or proceeding for the following reasons; (2) fraud whether heretofore denominated intrinsic or extrinsic), misrepresentations, or other misconduct of an adverse party...

While the statutory provision for overturning judgment obtained through fraud is relatively modersn, the equitable principles from which it evolved are not. The Untied States Supremen court, as

> early as 1944, recognized that "from the beginning there has existed... a rule of equity to the effect that under certain circumstances, one of which is after-discovered fraud, relief will be granted against judgments..." Hazel-Atlas Glass co. v Hartford Empire Co; 322 S. 238, 244 (1994). The availability of this relief is founded on the inherit repugnant of fraud any concept of justice. To defend against such affronts, courts have repeatedly refused any attempt to define fraud fearing that "the craft of men should find ways of committing fraud which might evade such a definition. N.Y .Life Ins. Co. v. Nashville Trust Co. quoting Smith v. Harrison, 292 S. W. 2d. 749, 754 (1956).

Further, indication of the seriousness in which our State views acts of fraud upon the courts is the tremendous enlargement of the time span within which a motion can be filed under Rule 60.02 of the Tenn. R. Civ. P., as compared to Rule 59. Not only does that rule provide a one years time period within which to file a Motion to Set Aside, but it also includes a saving clause through which an independent action may be brought against the judgment even after a year has passed. Indeed there appears to be no time

limit barring relief from judgment upon fraud except for reasonableness. The availablility of such continued relief is predicated both on a policy of protecting an individual's ability to defend this claim and a policy of proecting the integrity of the court.

A. The Court should set aside judgment and grant a new hearing because the Petitioner have been denied the ability to defend their claim due to the fraud perpetrated in this case.

This court should set aside it's judgment pertaining to the rights and ownership of the proceeds from the Decedent's NADART plan because that judgment was rendered based on the admittance of a fraudulent document. While the concept of fraud has been left intentionally undefined, it must surely include the presentation of a forged document to the court. Such is not a newly crafted evil of man, but an old way of obtaining judgment as fraudulent in 1891 as when it was quoted by the Court in 1998. U.S. v. Beggarly quoting Marshall v. Holmes; 524 U.S. 38, 47 (1998). A fraudulent judgment is not just "an injury to a single litigant [but] is a wrong against

> the institutions set up to protect and safeguard the public." Hazel-Atlas Glass Co. at 246. In Hazel-Atlas, the Court was contronted with a fraudulent document that was referenced in the respondent's appellate brief. Even though the document in question was not the only evidence presented, the mere fact that it influenced the appellate court was enough to warrant a re-hearing or at least presentation of evidence as to the validity of the claim that the document was fraudulent. Id.

In the case at bar, there is no issue as to whether the document might have influenced the judgment. It did. This Court specifically found that the signature on the Designation of Beneficiary Form was undisputed. There can be no doubt that this honorable Court would never have rendered judgment without further evidence upon proof that the document was forged. Granted, this Court would have allowed the Petitioners to present evidence that the document was forged at the hearing. However, the Petitioners had no way of knowing the craftiness with which the document had been tampered. This honorable Court itself viewed the document without suspecting that the signature of the Decedent had been transferred from some

unknown source. Viewing the document new, in light of the knowledge since gained, the problems with the signature are obvious. But to the unsuspecting eye, the document never warranted a second glance. Indeed, the document was viewed repeatedly as rumors of wrong-doing persisted. The document was scrutinized at a deposition concerning its origin and handling. The document was even compared to other forms apparently in use at the time the Designation of Beneficiary Form in questions was suppose to have been signed, Still, it was not until after months of reviewing that document that the odd-ness of the signature placement was noted. How could the Petitioners have been expected to have intuitively located in a moment, what took others months to see. The Petitioners never, under the circumstances, had a chance to defend their claim to the proceeds of their father's NADART Plan.

The Petitioners are not suggesting that Justin McLaurin had anything to do with the forging of document. However, it is not relevant who committed the forgery. The fraudulent document was used to support a judgment in favor of Justin McLaurin. Thus even though he innocently presented the document in support of

his claim, he cannot retain the part of funds that rightfully belong to Petitioners. In New York Life, supra, the Tennessee Supreme court found that though a wife innocently obtained the life insurance proceeds of her presumed dead husband, the funds could not e retained, even after twenty (20) years had passed, once the fraud was discovered. Id. at 755.

## CONCLUSION

For the foregoing reasons, Petitioners request that the Judgment of this Honorable Court be set aside, and a new hearing granted on the rights and ownership of the proceeds of Decedent's NADART 401(k) Profit Sharing Plan.

s/ Seymour S. Rosenberg

App. 29

National Automobile Dealers Association
8400 Westpark Drive
McLean, Virginia 22102
1-800-462-3218 or 703-821-7240
Email: nadart@nada.org
Retirement Trust

March 14, 2000
Plan ID: 400073

Ms. Marie A. Washington, Attorney
PO Box 2221
Memphis, TN 38101

Re: Schilling Lincoln Mercury NADART Salary Deferral 401(k) Profit Sharing Plan Participant Alfred Cash, Jr. Deceased

Dear Ms. Washington:

This letter will respond to your letter dated February 29, 2000.

According to our records, we do not have a properly completed NADART beneficiary form for Alfred Cash Jr. In the absence of a properly completed NADART beneficiary form, Article IX, Section 9.12 of the NADART Master Plan

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Document (approved December 12, 1997) dictates the following:

> If an Participant shall fail to designate a Beneficiary for the purposes of this section, or if any designated Beneficiary(ies) voluntarily disclaim their rights to the benefits under this Plan, the Plan Administrator shall designate Beneficiaries on his behalf, but only form among persons with the following relationship to the Participant, and only in the order named: 91) spouse, (2) children, (3) other descendants, (4) parents, (5) other ancestors, (6) brother and sisters, (7) nephews and nieces, and (8) estate.

Based upon the above, we will distribute the proceeds of Mr. Cash's account to his children, unless any of his children voluntarily disclaim their rights to the benefits under this plan. In the copy of his will which you forwarded to me, I was able to determine that he has five (5) children: Alfred Cash III, Doug Anthony Cash, Kevin Durrell Cash, Justin A. McLaurin and Regina T. Cash. Please let me know if this is correct and what their current addresses are.

I have included a copy of NADART Master Plan Document with this letter, along with 5 NADART IC-10 Benefit Request Forms. However, before I can release any funds, I will need a letter from you stating that the five individuals that I have listed above are the only living children of Mr. Cash. If there are any other living children make sure that you provide me their names and addresses.

I look forward to hearing from you shortly. If you have any questions, do not hesitate to call me at 1-703-422-3185.

s/ James S. Apistolas
Manager, Investment Choice Plans

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Thomas W. Vastrick
Forensic Document Examiner
6600 Stage Rd Suite 126-147
Barlett, TN 38134

Member:
American Society of Questioned
Document Examiners

American Academy of
Forensic Sciences

Southeastern Association of
Forensic Document Examiners

May 17, 2001

Seymour S. Rosenberg
Attorney at Law
371 Carroll Ave.
Memphis, TN 38105

File No. 011799

## FORENSIC DOCUMENT EXAMINATION REPORT

Problem

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Determine whether Alfred Cash, Jr., as represented by the submitted know handwriting specimens, wrote the Cash signature entry depicted on the submitted questioned documents.

The submitted questioned documents consist of the following:

Q-1 Copy of one Schilling Motors, Inc. Profit Sharing Plan Designation of Beneficiary dated January 2, 1990

The submitted known handwriting specimens of consist of the following:

K-1a Copy of one Policy Manual Statement dated January 2, 1990.

K-1b One original 1998 Form W-4 dated March 4, 1998.

K-1c One original correspondence regarding staff meeting attendance (undated).

K-1d One original Performance Agreement for August.

K-1e One original Performance Agreement for October, 1997.

K-1f Copy of one Schilling Enterprises Applicant's Authorization for Alcohol and Drug Testing dated December 28, 1989.

K-1g Copy of one Tennessee Operator License

K-1h Copy of one Membership and Record Change Application dated September 18, 1991.

K-1i copy of the signature page of one checklist dated January 4, 1991.
K-1j Copy of the signature page of one application dated April 5, 1996.

K-1k Copy of one Dental Care Plus application dated December 9, 1991.

K-1l Copy of one Tennessee Driver License.
K-1m One original 1999 Form W-4 dated March 19, 1999.

K-1n One original 1997 Form W-4 dated April 16, 1997.

K-1o copy of one 1996 (changed from 1995) Form W-4 dated April 5, 1996.

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K-1p Copy of one 1995 Form W-4 dated February 13, 1995.

Findings

The questioned signature entry on Exhibit Q-1 bears indications of having been written by Alfred Cash, Jr. (K-1). However, there is evidence that is signature did not originate on Exhibit Q-1. The questioned entry and the associated date entry sit significantly above the writing line. Examination of the submitted known handwriting specimens of Alfred Cash, Jr. demonstrate a habit, over a period of ten years, to write directly on the baseline. Based on this examination, it is my opinion that the questioned signature on Exhibit Q-1 is the product of an attempt to transfer the signature from an unknown document onto Exhibit Q-1.

s/ Thomas W. Vastrick
Forensic Document Examiner

IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

IN RE:

ESTATE OF ALFRED CASH, JR.
DECEASED

DOCKET NO C-1427
DIVISION 1

AFFIDAVIT OF THOMAS W. VASTRICK IN SUPPORT OF MOTION TO SET ASIDE PENDING ORDER OF REHEARING

STATE OF TENNESSEE

COUNTY OF SHELBY

Thomas W. Vastick, of full age and duly sworn deposes and states as follows:

1. I am a forensic document examiner, certified through the American Board of Forensic Document Examiners, and a member of the American Society of Questioned Document Examiners, the American Academy of Forensic Sciences, and the Southeastern Association of Forensic Document Examiners.

2. In my capacity as a forensic document examiner, I personally examined a copy of on Schilling Motors, Inc. Profit Sharing Plan Designation of Beneficiary form dated January 2, 1990 (Exhibit Q-1). I examined this document in order to assess the validity of the signature of one Alfred Cash, Jr., which is ascribed on that document.
3. At the time I examined the aforementioned document, I was in the possession of several other documents which are known to bear the valid signature of the same Alfred Cash, Jr. These documents cover a time span of approximately ten years and include.

K-1a Copy of one Policy Manual Statement dated January 2, 1990.

K-1b One original 1998 Form W-4 dated March 4, 1998.

K-1c One original correspondence regarding staff meeting attendance (undated).

K-1d One original Performance Agreement for August.

K-1e One original Performance Agreement for October, 1997.

K-1f Copy of one Schilling Enterprises Applicant's Authorization for Alcohol and Drug Testing dated December 28, 1989.

K-1g Copy of one Tennessee Operator License

K-1h Copy of one Membership and Record Change Application dated September 18, 1991.

K-1i copy of the signature page of one checklist dated January 4, 1991.
K-1j Copy of the signature page of one application dated April 5, 1996.

K-1k Copy of one Dental Care Plus application dated December 9, 1991.

K-1l Copy of one Tennessee Driver License.
K-1m One original 1999 Form W-4 dated March 19, 1999.

K-1n One original 1997 Form W-4 dated April 16, 1997.

K-1o copy of one 1996 (changed from 1995) Form W-4 dated April 5, 1996.

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K-1p Copy of one 1995 Form W-4 dated February 13, 1995.

4. Upon examining the questioned signature entry, I observed that while the signature entry bears indication of having been written by Alfred Cash, Jr., the entry is positioned significantly above the provided signature line. Previous handwriting specimens indicating that it was Mr. Cash's habit to sign directly on the allotted signature line.
5. Based on my examination of Exhibit Q-1 and various other documents bearing the signature of Alfred Cash Jr., I was able to form an opinion as to the validity of the question signature entry.
6. It is my opinion that the signature entry on Exhibit Q-1 did not originate on that document, but is the result of an attempt to transfer a signature from unknown document.

Dated: June 6, 2001

s/ Thomas W. Vastrick
Forensic Examiner

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
TENNESSEE
WESTERN DIVISION**

---

KEVIN CASH, REGINA CASH,
ALFRED CASH, III AND DOUG CASH,

Plaintiffs,

v.

Docket No. 05-2917-B/An

NADA RETIREMENT ADMINISTRATORS,
INC. d/b/a NADART,

Defendant.

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## PLAINTIFFS RESPONSE TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

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**COMES NOW** the Plaintiffs, Kevin Cash, Regina Cash, Alfred Cash, III and Doug Cash, by and through PRO SE, and move the Court in response to Defendant's Motion For Summary Judgment as there are genuine issues of material fact and a preponderance of overwhelming evidence in this cause and show why Defendant should not be entitled to summary judgment

as Defendant deliberately and knowingly defrauded the Court. Plaintiffs will show the evidence of the fraudulent beneficiary form (this forged document speaks for itself), presented to the Probate Court by Defendant's Attorney Kevin Cox, of Glankler Brown, who represented both Schilling Lincoln Mercury and Nadart, at the time. The fraudulent beneficiary form that Mr. Wayne Williamson, Vice President and General Manager of Schilling Lincoln Mercury, presented at his deposition, entered as exhibit, along with his counsel Kevin Cox, of Glankler Brown, had no Social Security

Number on it and when this beneficiary form was faxed to Nadart; the team leader Travis Anderson of Nadart informed the office Manager of Schilling Lincoln Mercury , Lisa Paton, that no social security number was on this beneficiary form, so Lisa Paton, added Plaintiffs, deceased father's, Alfred Cash, Jr.,'s, social security number onto this beneficiary form, as she admitted in her deposition.

In support of Plaintiffs Response, Plaintiffs relies upon the Statement of Disputed Material Facts and Documented Evidence separately filed herewith, and upon the entire record in this cause, as well as such other matters which may be presented to the Court upon any hearing.

WHEREFORE, your Honor we must remember and never forget that Defendants caused irreparable damage by breaking the law and robbing Plaintiffs of their share of their father's 401K and Profit Sharing Plan.

Therefore, Defendants need to be punished with

a clear message that you cannot break the law and make a family suffer for seven ( 7 ) years when from the very beginning the money and proceeds were rightfully theirs by Law. Plaintiffs pray the Court will not let this act go unpunished.

Respectfully submitted,

Plaintiffs

BY : s/ Regina Cash Stamps
Regina Cash Stamps

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and complete copy of the foregoing Statement of Disputed Material Facts And Documented Evidence has been seved upon Defendants in this matter, via U.S. Mail, postage prepaid at the address indicated:

Jeffery A. Jarratt
Glankler Brown, PLLC
1700 One Commerce Square
Memphis, Tennessee 38103

This 16th day of January, 2007.

Mr. & Mrs. Stamps
1595 Patrick Mill Pl
Buford, Georgia 30518

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
TENNESSEE
WESTERN DIVISION

KEVIN CASH, REGINA CASH,
ALFRED CASH, III and DOUG CASH

Plaintiffs,

v. Docket
No. 05-2917-B/An

NADA RETIREMENT ADMINISTRATORS,
INC. d/b/a NADART,

Defendant.

PLAINTIFFS STATEMENT OF DISPUTED
MATERIAL FACTS AND
EVIDENCE IN SUPPORT OF ITS RESPONSE
TO DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT

COMES NOW the Plaintiffs, Kevin Cash, Regina Cash, Alfred Cash, III and Doug Cash, by and through PRO SE, and submits the following statement of disputed material facts and evidence in response to Defendants motion for summary judgment filed in this cause.

Plaintiffs twenty six ( 26 ) page outline of the supported documentedevidence TAB 1- 46, that immediately follows, will show the clear trail of deception, malice and recklessness to conspire and conceal the FRAUDthat has been committed against Plaintiffs, from past attorneys Seymour Rosenberg, The Smart House, that hired the forensic handwriting expert Thomas Vastrick, read his findings, TAB 43 and Affidavit TAB 44, who Judge Benham would not allow his findings or testimony in Court, readHearing, TAB 35, Julian T. Bolton ,The Cochran Attorney/County Commissioner never filed in Federal Court the Petition For Injunctive Relief ; that he told Plaintiffs he would file, TAB 37, and also instructed Clients to Perfect Their Claim and Plaintiffs did, TAB 36, Mr. Apistolas faxed the IC-10 Benefit Request Forms to the Cochran Firm and Plaintiffs were instructed to take the formsto Schilling Lincoln Mercury for the Vice

President/General Manager Mr. Wayne Williamson to sign them and he did. Mr. Bolton asked if we would give counsels a chance to clean up (the start of this FRAUD):

Michael Harrell, notarized the Will, Lyttonia Cunningham, claims she drafted and went over the Will with deceased Alfred Cash, Jr., that came to the Office three ( 3 ) times and no one caught this error of his incorrect Name, specially, when it's in the Heading " LAST WILL AND TESTAMENT OF ALBERT CASH., JR." , not even the client himself, who handled countless of important documents contracts for selling cars, running his club businesses Al's Cash Box, Camelot, The Something Else, etc., not to mention the fact that an attorney/client contract was never signed and under Article II FUNERAL INSTRUCTIONS, Alfred Cash, Jr., didn't realize the State Farm Policy that he took out in 1975 and Plaintiffs ( minors at the time Alfred Cash, III, Doug Cash, Regina Cash and Kevin Cash) were the beneficiaries, but as you clearly can see the instructions direct , James ALBERT" Cash to be in complete and total charge of my funeral and burial arrangements. My life insurancepolicy valued at twenty Five Thousand and No Cents ($25,000.00) Dollars with State Farm Insurance Company shall be used for the

purpose of paying funeral expenses and any remaining funds from such policy, I devise and bequeath to my son, JUSTIN A. MCLAURIN ". RED FLAG, you mean to tell Plaintiffs, the attorney saw this policy and didn't advise Alfred Cash, Jr., that he needed to change beneficiaries before attorney Cunningham could put this in this legal document also that if there was a balance due on the Mercury Mountaineer he couldn't bequeath it nor the IRA Account number 064-0137727, held by First Tennessee Bank, since Plaintiffs former stepmother Mary Cash Dicson, was the spouse at the time this IRA was constructed and she was the primary beneficiary as Kevin Cash was secondary beneficiary and when this Will was being drafted Mr. Alfred Cash, Jr., and only he could and needed to make the necessary changes, if this was what he wanted, the IRA to go to the executor of the estate james "albert" cash and his successor robert cash, and the 401k document, ( with a minor child justin mclaurin at the time), had a supposedly designated beneficiary on it as well and that it would need to be changed so that the executor james "albert" cash and successor robert cash, adult brothers with adult children and

grandchildren , at the drafting of this will, could receive the proceeds, oppose to the executor's

attorney marie a. washington sending the will to nadart for her client james "albert" cash trying to retrieve the money, and miss cunningham also witnessed this will, with the missing date on the constesting of will, red flag alert
fraud, TAB 32, can provide Lyttonia Cunningham, deposition if needed, Marie A. Washington counsel, for Executor of Alfred Cash, Jr.'s, Estate , James "ALBERT" Cash, we can provide video/audio deposition if needed ; shows Miss Washington telling her client, what to say during the deposition and Mr. Rosenberg response to her in reference to her violation; Marilynn Sellers Hobbs counsel for Justin McLaurin minor at the time, now adult; Judge Benham ordered Mrs. Hobbs to put up a bond for the Estate and to increase the bond amount and she did so knowing she had enjoined in committing fraud, and Kevin Cox of Glankler Brown, Defendants counsel knew the beneficiary form was fraudulent but presented it to the Court.

TAB 31, TAB 32, TAB 33, TAB 43, TAB 44, READ AND LOOK AT THE DATES Plaintiffs have never been allowed to present evidence to show that fraud had been committed against them and the conspiriacy to conceal the fraud is ongoing. All former attorneys agree that fraud has been committed by Nadart.

Attorney Seymour Rosenberg read his Memorandum of Law,

TAB 45.

Attorney Julian T. Bolton / County Commissioner, read his Memorandum of Law, TAB 37, and Injunctive Relief, TAB 37.Attorney Kenneth M. Margolis read his letter strongly advising us to accept the seventy-five hundred ( $ 7500.00 ) settlement offer of Nadart, TAB 14, additionally Kenneth Margolis told Kevin Cash and Allen Stamps at a meeting held in his office March 2006, that Nadart's attorneys told him that Schilling Lincoln Mercury were the ones that committed the fraud and that was their defense and when questioned further as as to Mr. Margolis not filing again against Schilling Lincoln Mercury Dealership he stated the statute of limitation has passed. Plaintiffs have endured

nothing but injustice, violations after violations without the Laws applying to the Defendants or previous counsels. Ex- Parte was sought when Plaintiffs had counsel Kathy Gomes TAB 23, and nothing was done. Waiver forms were sent out to Plaintiffs by the purported beneficiary Justin McLaurin, adult now, attorney Marilynn Sellers Hobbs, nothing done as if it TAB 26, never happened.

Marie A. Washington attorney for the executor of the Estate, JamesAlbert Cash, knowingly and willfully mailed a copy of the fraudulent beneficiary form with a social security number on it to Plaintiffs counsel at the time Seymour Rosenberg TAB 27 isn't this Mail Fraud as this fraudulent document was used against Plaintiffs to prejudice our rights to our father's 401K and Profit Sharing Plan. When Nadart knowingly and willfully faxed a fraudulent document ( beneficiary form ) dated May 2, 2000, from James Apistolas to the Probate Court to Clerk of the Court Chris Thomas, isn't this wire fraud as this document was used to defraud the Court, TAB 24, read Lisa Paton deposition TAB 3, read Hearing TAB 35, read James Apistolas letter in Memorandum TAB 37, Wayne Williamson deposition, TAB 31, Look what Nadart faxed to the Probate Court, TAB 24,

notice the number 901-365-1480 Schilling L/M, 462 PO2 , JAN 18 '00, 16:19, and above this is 02/00 11:19 FAX 703 448 5850 NADART 002, Exhibit 1, 01-10-02 this is the beneficiary form from the Hearing January 10, 2002 faxed to the Probate Court on May 02, 2000, from Jim Apistolas, Manager, Investment Choice Plan on Nadart'sLetterhead FACSIMILE TRANSMITTAL SHEET, four ( 4 ) days after Alfred Cash, Jr.'s, death; he wasn't even buried yet , when Defendants started this scheme. Notice this has a social security number on it; now refer back to Mr. Wayne Williamson deposition, TAB 31, and notice on the beneficiary form he presented at his sworn deposition with his attorney Kevin Cox of Glankler Brown also representing ,NADART, TAB 25, that there is no social security number on it and Al Cash is on the upper left corner and under oath in his sworn deposition with his counsel Kevin Cox, Mr. Wayne Williamson, Vice President and General Manager of Schilling Lincoln Mercury where Alfred Cash, Jr., worked; stated this was the original beneficiary form. Now, refer to Lisa Paton, Office Manager, at the time at Schilling Lincoln Mercury, deposition, TAB 33, wouldn't Mr. Williamson beneficiary be the same as the office manager's Lisa Paton as she admitted in her sworn deposition under oath that she added

the social security number onto the beneficiary form four ( 4 ) days after deceased Alfred Cash, Jr.'s death, so why didn't Mr. Williamson's beneficiary form have the same writing across the top with the phone numbers and why did his beneficiary form not have a social security number on it because his deposition took place February 16, 2001, a whole year later, and Lisa Paton already stated December 14, 2001, at her deposition, she added the social security number on it January 18, 2000, (as we saw already the faxed Beneficiary Form from NADART to the Probate on May 02, 2000 TAB 24 ), four ( 4 ) days after Alfred Cash, Jr.'s, death, when Travis Anderson, Team Leader, NADART INVESTMENT CHOICE , informed her that the social security number was missing and needed, especially, when the social security number is vital as it identifies its plan members as Lisa Paton stated in her sworn deposition. Defendants knew this document was no good but knowingly and willfully defendants conspired to defraud Plaintiffs and the Court. Nadart disregarded Judge Benham strong advise to settle the case, and Julian Bolton told Nadart they may have to pay twice, read TAB 41, Defendants claim this cause was fully litigated in Court and as you can see Plaintiffs were never allowed to present any evidence the Court was bias and as Julian stated

the Judge didn't like the way we do things and it's too many people involved. Julian Bolton also stated the Judge knows this is stinky ( we have audio, if needed ) and we had enough evidence to bury defendants. Plaintiffs had to file a grievance against the Executor's attorney Marie Washington and Justin McLaurin's attorney Marilynn Sellers Hobbs, TAB 32, as well as our own attorney Mr. Margolis, TAB 1, and nothing has been done. Your Honor Plaintiffs did not create this evidence, Defendants did ,we were just there to collect it. Honorable Judge Robert Benham abused his Judiciary Discretion, where is the supporting documentation showing what was used to release the money, to Justin McLaurin and what is the exact amount of the money that was paid to him? The Defendants failed to attached supporting documents, it's not in the Motion For Summary Judgment nor did Plaintiffs see the beneficiary form, why not?

Where did the Beneficiary Form come from we ask the Defendants and ask the Court?

Defendants intentionally deceived, manipulated and defrauded the Court and as your Honor reviews the preponderance of evidence you will see all the hardship, suffering and urgent cry for help, TAB 47 missing Order, with Oder

Authorizing Nadart To Release Funds and Court's Order On Pending Matters and Order Vacating Previous Order and Increasing Amount of bond all attached, TAB 48, TAB 49, TAB 50 Plaintiffs letter to Federal Court, TAB 51 Notice Of Setting Plaintiffs discovered Non-Jury Trial when Plaintiffs clearly demanded a Jury Trial in Complaint, TAB 52 Denied Plaintiffs, TAB 53, Office of the Attorney General in Tennessee, TAB 54 BOARD OF PROFESSIONAL RESPONSIBILITY, TAB 55 STATE BAR REGARDING FEES, TAB 56, AMERICAN BAR ASSOCIATION STATING PLAINTIFFS HAVE TAKEN THE APPROPRIATE ACTION, TAB 57 UNITED STATES DEPARTMENT

OF JUSTICE FRAUD SECTION, TAB 58 BOARD OF PROFESSIONAL RESPONSIBILITY DISMISSING THE COMPLAINT and on top of this Plaintiffs find out the Estate Of Our Father Alfred Cash, Jr., has been closed without notice to Plaintiffs; never has Contestment of the Will, AS YOU CAN CLEARLY SEE THERE IS A CONSPIRACY OF FRAUD HERE INVOLVING SEVERAL ATTORNEYS, to put an end to this malicious attack on Plaintiffs, for it is the Plaintiffs, who lost their father and defendants have totally

dishonored and disrespected him by their actions not to mention the legal profession as a whole this blanant disregard for the law is acceptable and should not be tolerated by no means. Plaintiffs through the Law was meant for everyone we didn't know large Corporations and Attorneys were exempt. How can you trust and believe in the Judicial System that allows this type of conduct. Nadart thinks the best defense is money; the best defense is a honest life. Plaintiffs are seriously outgunned but we are right and have the evidence to prove our case in the Federal Court with a Jury if given the opportunity. If NADART is not punished someone else's family could be there next victims.

## CONCLUSION

WHEREFORE, Plaintiffs respectfully request you deny the Defendant's Motion For Summary Judgment as there are genuine issues of material facts and evidence in this cause.

s/ Regina Stamps

CONSUMER ASSISTANCE PROGRAM
BOARD OF PROFESSIONAL
RESPONSIBILITY
OF THE SUPREME COURT OF TENNESSEE

BEVERLY P. SHARPE, COUNSEL
DIRECTOR OF CONSUMER ASSISTANCE
PROGRAM
1101 KKERMIT DRIVE, SUITE 735
NASHVILLE, TN 37217
TELEPHONE: 615-361-7500
800-486-5714
FAX: 615-367-2480

April 21, 2006

Kenneth Michael Margolis, Esq.

RE: CAP File No. 04002111
Complainant: Regina Cash Stamps

Dear Mr. Margolis:

The enclosed correspondence has been forwarded to the consumer Assistance Program (CAP) for the purpose of making a preliminary inquiry into the matter. It will be helpful and appreciated if you would provide a brief written statement concerning the complaint.

Please reply to CAP within 10 days of the date of this letter and copy the complainant at the same time, so that this matter may be resolved as quickly as possible.

s/ Beverly P. Sharpe
Counsel
Director of Consumer Assistance

Enclosure: Stamps Complaint [PV 209-213]

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MEMORANDUM OF COMPLAINT

Regina Cash Stamps, Kevin Cash, Alfred Cash, III, Doug Cash
1595 Patricia Mill Place
Buford, Georgia 30518
770-831-7511

Name of Lawyer: Keneth M. Margolis
100 North Main Street
Suite 2601
Memphis, TN 38103

State exactly what the lawyer has done, or failed to to, which you believe is unethical. DESCRIBE YOUR COMPLAINT IN DETAIL. Use back of this page or attach other pages for more space.

Dear Esteem Members of the Tennessee Board of Professional Responsibility:

It is with reluctance that we must inform you about serious concerns that have come to our attention as clients of attorney Kenneth M. Margolis. Mr. Margolis was provided extensive documentation detailing the specifics of the case for the Estate of Alfred Cash, Jr. for which his services were retained. The information in the documentation reveals conspiracy to commit and

conceal FRAUD by officers of the court. It is our understanding that if an attorney has knowledge of these types of serious improprieties it is his/her fiduciary duty as a sworn officer of the court to report such knowledge to the proper authority that governs and admonishes such actions, therefore we are submitting documentation to substantiate the facts of our complaint for you review and subsequent action. Mr. Margolis refused to return our phone calls so Mr. Stamps had to come in unannounced to Memphis to meet with Mr. Margolis. Mr. Margolis filed suit on December 9, 2005, and the Defendants (NADART/NADA) attorney Jeffery A. Jarrat of Glanker Brown, PLLC asked for additional time to respond and was granted the additional 30 days in which Defendants response was on February 5, 2006. Important fact to remember Defendants first (1) attorney Kevin Cox of Glanker Brown, PLLC was the representing counsel for NADART and Schilling Lincoln

Your Signature: s/ Regina Cash Stamps

Dated: 4/10/2006

Received April 11, 2006

Mercury and had complete knowledge that **fraud** had taken place. The first attorney Kevin Cox of Glanker Brown, PLLC, conspired with Marie A. Washington and Marilynn Sellers-Hobbs ( reference # AD-6078 at the Bar ) to conceal the **fraud** which is ongoing as of this date. Also, notice on attorney Marilynn Sellers Hobbs **ORDER ON MOTION TO SET ASIDE PENDING ORDER AND REHEARING AND AMENDED MOTION TO SET ASIDE JUDGMENT** last paragraph, first page, last line ,**"attorney appeared for NADART and submitted the beneficiary form (fraudulent document) wherein Justin Alan McLaurin was designated beneficiary"**. Mr. Kenneth M. Margolis, our current counsel stated several times to Kevin Cash ( client ) via phone and in person and also via phone to Allen Stamps ( husband of client Regina Cash Stamps ) before refusing to return our calls, that he ( Mr. Margolis ) would file a brief with all the supporting evidence after the Defendants responded to the initial complaint. Now, Mr. Margolis refuses to attach the supporting evidence to validate our complaint. Mr. Margolis requested a scheduling conference for April 14, 2006, (only after the meeting with Kevin Cash and Allen Stamps took place and they informed Mr. Margolis that he could ask for

a hearing before the Honorable Judge anytime with the evidence that he has in his possession). Mr. Margolis has been in contact with opposing counsel and believes that they can work out a scheduling Order without needing to wait for the hearing ( in which case the hearing will be struck ). See letter dated March 13, 2006, as Mr. Margolis has changed his whole course of action by refusing to present the supporting evidence after the Defendants responded, as he ( Mr. Margolis ) told us ( Clients ) several times he would do. Mr. Margolis stated to Kevin Cash ( client ) that the former counsels needed to be reported to the Bar as you can see clearly, its fraud, " and as an officer of the court my license are on the line if I don't do what I'm suppose to do and I have a duty to report it". Mr. Margolis also stated he would investigate any misconduct surrounding the Estate of Alfred Cash, Jr., and that he would present all of the evidence when we receive the response and these conversations took place before he actively started conversing with NADART. After, Mr. Margolis received the full five thousand dollars retainer fee, he did not honor his word. Enclosed is the supporting evidence which clearly corroborate the relevancy of our case of conspiracy to commit and conceal fraud.

CC: w/enclosures:

THE HONORABLE ALBERTO R. GONZALES-US ATTORNEY GENERAL
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3 page list of supporting evidence in order by dates

January 18, 2000 - 1st Beneficiary Form, this is the beneficiary form that Miss Lisa Patton former Office Manager of Schilling Lincoln Mercury affixed deceased Alfred Cash, Jr.'s, social security number ( 4 days after the death January 14, 2000, of our father) on the beneficiary form as she stated in her sworn deposition ( see Mr. Julian T. Bolton's Supplemental Memorandum of Law in Support of Petitioners' Amended Motion to Set Aside Judgment and for Rehearing )

May 11, 2000- letter to Mr. Apistoles Investment Manager at Nadart who sent our IC-10 Benefit Request Forms to attorney Marie A. Washington which she never gave to us. This letter to Mr. Apistoles is clearly showing local counsel Kevin Cox of Glankler Brown is representing both parties, Nadart and Schilling Lincoln Mercury ( whom they are now blaming ), stating Vice President/General Manager for Schilling Lincoln Mercury Wayne Williamson and Nadarts appearance is unnecessary and Nadart is prepared to interplead the funds to the court or hold the funds in constructive trust until the

beneficiary dispute is resolved.

May 15, 2000- Waiver Forms that attorney Marilynn Sellers-Hobbs sent to the four natural heirs, we have never spoken with Mrs. Hobbs nor did we ever sign waiver forms. Why would you send waiver forms out if your client was the designated beneficiary??? There would be no need and why wasn't the letter addressed to Mrs. Hobbs instead of attorney Marie A. Washington ( sent the Will to Mr. Apistoles ). Red alert

Attorney Seymour Rosenberg - Our former counsel knowledgeable of Fraud but didn't report it, see Memorandum Of LAW IN SUPPORT OF THE PETITIONERS' MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING showing the document relied upon into evidence was a forgery, constituting fraud upon the court. The signature originated on some document other than the form to which it is now affixed. We requested that attorney Seymour Rosenberg hire handwriting expert in which he did Mr. Thomas W. Vastrick- Forensic Document Examiner and this is what his findings revealed on the handwriting specimens of Alfred Cash, Jr. **"demonstrate a habit, over a period of ten years, to write directly on the baseline. Based on this examination, it is my opinion that the questioned**

**signature on Exhibit Q-1 is the product of an attempt to transfer the signature from an unknown document onto Exhibit Q-1.**

February 16, 2001- 2nd Beneficiary Form on upper left corner our fathers name abbreviated name appeared "Al Cash" this beneficiary form was what Vice President/General Manager Mr. Wayne Williamson presented at his sworn deposition notice there is no social security number here but the same superimposed signature is clear. We ask how many beneficiary forms do they have because Mrs. Lisa Montgomery Patton, former Office Manager for Schilling Lincoln Mercury stated she affixed Mr. Alfred Cash, Jr.'s, social security number on the beneficiary so that Nadart could identify him since that's how you're identified with the plan, your social security number is your plan number so why is there no social security on this one that Schilling Lincoln Mercury's Vice President/General Manager Mr. Williamson presented???

January 08, 2002- County Commissioner/Attorney Julian T. Bolton's Supplemental Memorandum of Law in Support of Petitioners' Amended Motion to Set Aside Judgment and for Rehearing for filing with the

Court in the matter. Mr. Bolton's Memorandum spells out FRAUD along with the supporting exhibits as well the Employee Retirement Income Security Act "ERISA" that governs the plan. Mr. Bolton our former attorney asked if we would allow them ( attorneys Marie A. Washington, Marilynn Sellers-Hobbs, Seymour Rosenberg, Kevin Cox, Lyttonia Cunningham, Michael Harrell ) a chance to clean up because it's too many people involved and that's why the Honor Judge Robert Benham didn't like us or the way we do things, and we could be made whole but the attorneys couldn't ( what a statement all because we seek justice for the wrongful act committed against us ). Mr. Bolton as you can see is very much aware of the Fraud as well but did he follow the professional conduct rules and report this???

January 11, 2002- Mr. Bolton advised us to perfect our claim and we did, Mr. Apistolas faxed the IC-10 Benefit Request forms to the Cochran Firm and we filled out the benefit request forms and took the forms to Schilling Lincoln Mercury where Mr. Wayne Williamson signed all four documents and we federal expressed the Benefit Request Forms and have no heard a word as of this date back from Nadart although we perfected our claim.

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January 22, 2002- Mr. Julian T. Bolton Petition for Injunctive Relief faxed to Regina Cash Stamps in which he was suppose to file in Federal Court but never did. Mr. Bolton attached the federal laws as well as spell out the irreparable injury, loss and damage to the beneficiaries of Alfred Cash, Jr., and deprive the four adult children of funds they are entitled to receive being held by the Respondent

Attorney Marilynn Sellers-Hobbs-First (1) Order Mrs. Hobbs wanted our former counsel Mr. Julian T. Bolton to sign. Please note Mrs. Hobbs states on page 3 last paragraph "Therefore, The Court Finds that Alfred Cash, Jr. was never afforded an opportunity to sign a Nadart beneficiary form, prior to his death. The Court find that the beneficiary form ( fraudulent document ) admitted into evidence on July 27, 2000 was the beneficiary form executed by Alfred Cash, Jr., on January 2, 1990 and "maintained" in NADART's file at the time of his death. It was the form that all Schilling employees executed in 1990. Subsequently," in 1999", all funds were transferred from one Qualified Plan ( First Tennessee Trustee ) to another Qualified Plan ( NADART Trustee ) both of which are approved by the Internal Revenue Service. Red Flag Mrs. Hobbs states the beneficiary form was

maintained in Nadart's file, then please explain why Mrs. Lisa Paton had to fax the beneficiary form to Travis Anderson at Nadart if it's maintained there ??? One important factor our father was still alive in 1999 and worked sometime so when the funds were transferred from one plan to another he had an opportunity especially since Schilling knew of his illness, he passed on in 2000.

January 28, 2002- Mr. Bolton our counsel at the time prepared an alternative Order as he took issue with all the findings of fact, which are spelled out in the Order presented to him by Mrs. Hobbs (very deceitful and clandestine ), so he prepared an Order.

February 05, 2002- Mrs. Hobbs second (2) Order after Mr. Bolton sent her his prepared Order to sign. Now, notice all the changes and look on page 3 the inconsistency here, now the form was maintained in Schilling Motor's, Inc. file at the time of his death. It was Nadarts representatives duty and responsibility to provide all information and forms required for Schilling's enrollment in the Plan. No proof was offered to prove that Alfred Cash, Jr., signed any forms ( but the funds were allocated to Mrs. Hobbs client based on the executed fraudulent beneficiary

form ) if there is no proof provided how did Mr. Cash funds get to Nadart from First Tennessee Bank ??? but on the first page last paragraph of Mrs. Hobbs order it clearly states Kevin Cox attorney appeared for NADART and submitted the beneficiary form wherein Justin Alan McLaurin was designated beneficiary. Second page, Further, the court held that the only issue before the Court on January 10, 2002, ( we have the transcript upon request that shows forgery and the Honorable Benham wouldn't allow our expert witness Mr. Vastrick to testify but the Honorable Judge Robert Benham stated he was not going to allow forgery in his court and he denied our motion. ). There is just to many red flags here.

July 18, 2002 - Honorable Judge Benham's COURT'S ORDER ON PENDING MATTERS as we informed the court of missing documents, documents being changed at will taken out of court and changed and then put back. The Judge's Order Authorizing Nadart to Release Funds, Courts Order on Pending Matters, Order Vacating Previous Order And Increasing Amount of Bond.

July 26, 2002- Mr. Bolton's letter to counsels Marilynn Sellers-Hobbs, Marie A. Washington

and Kevin Cox of Glankler Brown reminding them of the judges request to settle this matter prior to any Will Contest. Mr. Bolton let counsels know with the proof that we have it would be in the best interest of the family to settle this matter and also of Nadart to settle this matter or they would have to pay twice. As you can see no response and that's why we're at this juncture today.

December 05, 2002- Mr. Bolton put in a Motion to Withdraw and we opposed so the hearing was rescheduled due to inclement weather in Georgia at the time until March 19 and 20th of 2003.

March 06, 2003 - Mr. Bolton's letter advising us that the final hearing on the referenced matter is scheduled to take place Wednesday, March 19, 2003. This was a hearing on Mr. Bolton's withdrawal from the case and we gave testimony as to the hardship it would cause by letting him off the case especially knowing fraud has been committed. At this hearing was a channel 5 news reporter who witnessed the testimony of fraud from Regina Cash Stamps on day one and witnessed a court reporter being in the court room taking down the testimonies. The transcript is missing and no one knows who the transcriber was or where she came from although

she gave her card to Mr. Bolton to let him know that she wouldn't be returning and that another would be there in her place. Judge Benham stated he didn't know as well as his secretary Carol Sides, could it be because the testimony that was given when the channel 5 reporter was there was so damaging especially when the Honorable Judge Benham stated to Marie A. Washington and Marilynn Sellers-Hobbs " You mean to tell me you're letting this woman get all this down on record and you're not objecting; he stated I'm going to remember that we you ask for your fees and he slammed his gavel down and call a five minute recess. Mr. Bolton stated Mrs. Cash Stamps made the Judge mad with her testimony because he forgot he was being recorded. Honorable Benham after five minute recess came back to the bench and apologized to the court. The missing and very damaging transcript is still missing and no one knows a thing we find that very hard to believe but then again maybe not since other documents walk in and out of Court.

October 21, 2005- Mr. Kenneth Margolis our current attorney Retainer Agreement for recovery of proceeds of Alfred Cash's 401(k) account and any and all possible additional claims incident to the plan. Read Carefully

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December 09, 2005- Mr. Margolis filed COMPLAINT AND DEMAND FOR JURY TRIAL this is the only 6 page document that's in Federal Court.

January 18, 2006- Letter from Mr. Stamps requesting a copy of Defendants Summons and request for extension of time and the Judge's answer to their request along with a letter showing payment of five thousand has been satisfied.

January 19, 2006- Mr. Margolis letter confirming payment in full along with the summons and motion for extension of time to answer filed by opposing counsel.

February 2, 2006- Letter from Mr. Margolis stating he received Defendant's Answer to our Complaint. Please note the Answer is exactly as we expected, and enclosed a copy for our records, additionally enclosed a copy of the Court's Order allowing Nadart more time.

February 10, 2006- Letter from Regina Cash Stamps in reference to Defendant's Answer also Mr. Margolis received four faxed Orders. Read carefully

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March 01, 2006- Letter faxed from Regina Cash Stamps in reference to unreturned phone calls and filing brief with supporting evidence. Read Carefully

March 13, 2006- Letter from Mr. Margolis in reference to meeting between Kevin Cash and Allen Stamps and notice the change. Read Carefully

April 07, 2006- Letter from clients regarding any meetings with Defendant's. Read Carefully

We have overwhelming evidence and an active trail of conspiracy by officers of the court to conceal the fraud that has been committed. Mr. Margolis stated at the meeting to Mr. Kevin Cash and Mr. Allen Stamps that Schilling is the one that committed the fraud and if this case went to Court we (clients) would win with the evidence that we have against them and that he would try and locate the missing transcript and that it shouldn't be hard to locate because their is not a lot of transcriptionist in the city of Memphis and that his wife works as a transcriptionist.

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TABS

1. Twenty six (26) page of Facts For and Consumer Assistance Program
Board of Professional Responsibility dated April 21, 2006, requesting response from Mr. Margolis within 10 days Stamps Complaint (* **Please note clarification needed;** on the Complaint where Defendants response was on February 05, 2006, should read January 30, 2006, as this was the time granted by the Court;
Defendants asked for an extension of time 8 days before their answer was due on December 29, 2006, ( **see Mr. Margolis letter dated February 02, 2006 with Defendants answer attached, see after, the Civil Complaint filed against Nadat dated December 09, 2005, immediately following Mr. Margolis January 19, 2006, letter** ), and the additional time was granted giving them to January 30, 2006 to respond, ( **Please note this is when Regina Cash Stamps received her copy February 05, 2006, of Defendants Answer from sibling Kevin Cash** )

2. Mr. Margolis filed Complaint against NADART in Federal Court dated December 09, 2005, ( see City and State of Clients residence Lithonia, Georgia and Norcross, Georgia, now see top of

last page (verifies part of conversation with Mr. Margolis as stated ; we're glad this was mistakenly left in the complaint as he stated the counts, otherwise, he may have slipped out of this one, as he's trying to do, Mr. Margolis forgot to remove his statment competely and it's what he told us verbally about our constitutional right being violated and the Honorable Benham was improper with what he did as he knows better and the misconduct ( was illegal and unconstitutional and he was going to report them ( counsels ) to the bar and he would go after them ( counsels ) for malpractice; now Mr. Margolis claims he has no such Knowledge of the misconduct ( he said illegal ) and malpractice, also make note of the faxed letter dated January 18, 2006, ( **from Mr. Stamps see after January 06, 2006 letter from Mr. Margolis** ) asking Mr. Margolis for **Summons served December 09, 2005, to Mr. Kevin Cox as Mr. Stamps spoke with Mr. Margolis regarding this matter on Tuesday, December 13, 2005, a copy of Defendants request for an extension**

and to generate a letter to us stating the Five Thousand Dollar ( $5000.00 ) retainer fee has been paid in full and the retainer agreement satisfied, now reference back to his contract agreement as he point out the obligations to us individually and collectively, (*** Please note that these conditions and caveats have been taken directly from the Tennessee Rules of Professional Conduct for Attorneys*** on page 3 of 4 of his response ), #2 keeping you adequately appraised on case developments, #3 (a ) reasonably informed about the status of a matter and comply with reasonable requests for information within reasonable time, from December 13, 2005, we still gave him more time before this letter was generated on January 18, 2006, ( one month and five days ), now Mr. Margolis states in his Motion To Withdraw the noncompliance of his client ( very cunning, dishonest, twisting the truth to his advantage )

3. Mr. Margolis letter dated January 06, 2006, informing us (clients). Now, after he knew obviously we (clients) would

discover from reading, the requested information,( **Summons in Civil Action against Nadart** ) made back on December 13,2005, defendants attorney Mr. Jarratt ( pointing out Mr. Margolis's error on the service of summons, served upon Mr. Kevin Cox, of Glankler Brown ),**Defendant's Answere is due Thursday, December 29, 2005, although the summons stated it was due 30 days after service. ( SEE Summons attached after January 19, 2006, letter from Mr. Margolis ).** Instead of Mr. Margolis sending the summons he sent this dated January 06, 2006, stating he just wanted to keep both of you up to date on the progress of the suit. **"Since this matter is in Federal Court, the Defendant has only 20, not 30 days with which to respond to our Complaint." , as if Mr. Margolis, made the self correction himself, just look at the wording it speaks for itself ( misconceive ), instead of admitting he made a mistake, no, Mr. Margolis does not stop there he goes on to say "However, as is customary in this district, the Defendant asked for an additional 30**

days which the Court agreed to ( not that he, Mr. Margolis, did, and the Court accepted it but it's as if he had nothing to do with this at all (reference note as you will see this conduct again later on with the scheduling order letter dated April 10, 2006), just look at the way he worded it, Mr. Margolis has shifted the blame on the Court; when he realized we still wanted the requested information now, along with defendants request for a 30 day extension. ( turpitude, deceptive, mischievous, misleading ), and Mr. Margolis continues "As such, an Answer to our Complaint is due at the end of January. Additionally, for your reference I did not receive a payment from Douglas ( his name is Doug as you told Mr. Margolis ) Cash for December, at time I have only received Alfred's payment for January ). Mr. Margolis has just validated what we've stated in reference to him not having, Alfred's or Doug Cash's addresses, by Mr. Margolis's own admission referencing payment ( Please see contract and view Mr. Margolis's client obiligations as he lays out for us his duties and then refer

to agreement made with Clients, "I will file this Civil Lawsuit aganist NADART/SCHILLING in October no later than November and clearly clients followed the agreed upon verbal condition and it states here the only payment received is Alfred's ( pointing out, Alfred's address as you wouldn't send your money order out without a return address; because if something happened; you would want it to come back to you, as well, so,that if it didn't you could put a tracer on it, as it verifies your purchase of the money order ). When I, ( Regina ), spoke with Mr. Margolis in reference to the complaint filed in December, so, I informed my siblings not to send anymore payments until suit was filed Federally and that's when Mr. Margolis, stated his wife had been in an accident. I told him I, ( Regina ), was sincerely sorry and I hoped she ( Mr. Margolis's wife ) was alright ,as I, ( Regina ), went out to get his wife; a wish you well and a speedy recovery card, when the conversation ended between Mr. Margolis and myself.

4. Faxed letter from Mr. Allen Stamps dated January 18,2006, please refer to number two (2)

4. **Now, take a look at the letter dated January 19, 2006, of Mr. Margolis ( stating clients have honored their portion of attorney/client agreement, after the January 18, 2006, faxed letter; once again in compliance ), and attached behind cover letter is the Defedants response requesting more time; Notice how Mr. Jarratt of Glankler Brown the same firm that Mr. Kevin Cox , the 1st counsel for Nadart and Schilling ( see letter dated May 11, 2000, from McGuire Woods Battle & Booth, out of Washington, DC., to Mr. Jim Apistolas, Manager, Investment Choice Plans National Automobile Dealers & Associates Retirement Trusts, out of McLean, VA., Mr. Wayne Williamson, Vice Pesident/General Manager for Schillin Lincoln Mercury, deposition as Mr. Cox, is counsel ) pointed out Mr. Margolis Summons "Defendant's Answer is due Thursday, December 29, 2005, although the summons stated it was due 30 days after service ( refer back to contract**

where he obtained rules for attorneys "#1 I shall provide competent representation to a each of you, (should be each of you ). Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation". Defendants filed for an extension on December 21, 2005, and the answer was due December 09, 2005, eight (8) days later the additional time was granted. Now, see last page the SUMMONS IN A CIVIL ACTION notice served upon Mr. Kevin Cox, Esq. of Glankler Brown PLLC, the same attorney as stated before represented both Nadart/NADA & Wayne Williamson ( Vice President and General Manager of Schilling Lincoln Mercury ), also see Mr. Williamson sworn deposition ( February 16, 2001, he presented Beneficiary form without Mr. Alfred Cash Jr., social security number on it and** please make note of his positions with Schilling Lincoln Mercury, as Mr. Cox was counsel of record, when this document was presented and then refer to Mrs. Hobbs Order where counsel Kevin Cox

**submitted document, also see cover letter faxed to the Probate Court on 5/02/00 from Jim Apistolas on National Automobile Dealers & Associates Retirement Trusts letterhead to Clerk of Probate Mr. Chris Thomas).**

6. Letter from Mr. Margolis dated Februay 02, 2006, **Defedants Answer which I ( Regina Cash Stamps received from my brother Kevin Cash although Mr. Margolis had my name on it ) Deceiving the same thing Ms. Washington did see Complaint filed on July 26, 2001. ( a pattern in the works of counsels )**

7. Faxed Letter cover ( contained 21 pages ) dated February 10, 2006, to Mr. Margolis faxing him four (4) complete Orders in response to Defendants Answers that I ( Regina ) received from my brother; and it was much later when I received my copy from Mr. Margolis

7. Letter dated March 13, 2006, from Mr. Margolis referencing the meeting between Kevin Cash and Allen Stamps ( no mention of loudness, rudeness etc., this would have been the perfect time to say the accusations he's made against us clients and them ( meeting with Kevin and

Allen ). Now as stated earlier the change in Mr. Margolis variations in his course of actions as he agreed he was going to do, here he says" I again explain", "I was hoping NADART would file a dispositive motion in an attempt to have this suit dismissed. I do not think that there is a serious dispute as to our factual allegations that the beneficiary form is not the proper form and that it is the product of fraud ; however NADART's best defenses is procedural in nature. In the interests of trying to get this matter resolved as quickly and efficiently as possible, I was waiting until March, 8th, to see if NADART would file some type of motion to dismiss based solely on the pleadings. "If NADART did file such a motion "I was plannining on drafting ( he told clients file) a responsive brief ( Mr. Margolis stated just brief to clients, statement to the Board wasclients became confused with his explanation of his "game plan" as you can clearly see by his letter he falsified, his answer to you ( Bar ), to counteract their specific arguments, ( this is the brief Mr. Margolis was supposed to be filing along with all the supporting evidence as he stated to clients he was

going to do and after filing the brief with all the evidence a serious offer would be made by Nadart as they ( Nadart ) did not want this going to court as he had spoken with the attorney ( Mr. Jarratt ) for defendants ( Nadart ) and their scared, as you can see by Mr. Margolis own admission he was to draft ( file ) a brief that he now denies in his responses; Mr. Margolis denies he hadn't promised ( He's right; he never mentioned the word promised, you change or add a word, you change the context which it can become a loophole to swindle out of ), to file anything, ( but as you can clearly see, that's just prevaricating, dishonest, unhanded, misleading, deceptive, ( Board of Professional Responsibility dated April 27, 2006, page 2 last paragraph starting from "Apparently, clients became confused" and his Motion To Withdraw dated May 10, 2006, ( page 2 handling of present litigation ), we see no mention of the accusations of loudness on the phone from Kevin on February 23, 2006, when Mr. Margolis was returning the call from Kevin ( during the time Mr. Margolis was not responding to us refer back to generated letters ) while he was at work

and the reception was extremely bad ( cell phone ) so Kevin tried moving to a different area and called Mr. Margolis back and when Mr. Margolis couldn't hear very well; he told Kevin he would call tomorrow, so, when Kevin found a spot with good reception he inturn contacted me ( Regina ) and asked that I give Mr. Margolis a call as Mr. Margolis has changed his course of action again, ( this is very misleading it reminds me ( of the movie "A Time To Kill" where the opposing attorney put on the expert witness to discredit his testimony stating he had been charged it statutory rape ( opposing counsel twisted the truth in order to sway the jury against his credibility, but it wasn't until Plaintiff's counsel laid out the truth to the charges the expert witness was charged with; and that the expert witness and his then girlfriend were teenagers at the time with a couple of years difference; but the expert witness was considered an adult while the girlfriend was still considered a minor and that he later married his then girlfriend the moral here the defense twisted the truth, deceiving ), in this Motion but it's in the Bar responses why not here this is

**again the perfect time to note it as well as the yelling, Mr. Margolis stated took place on March 09, 2006, one further point, why not mention the behavior in his correspondence to us instead you see the clear admission stated Mr. Margolis was to file a brief ( very, very deceptive )**

9. Faxed, Emailed and Mailed letter dated April 07, to Mr. Margolis from Regina Cash Stamps follow-up to the meeting and referencing the Scheduled Conference before the Court . Mr. Margolis lead us to believe this cancellation was at the will of the Court. ( misleading )

10. Mr. Margolis response dated April 27, 2006, to Ms. Sharpe ( see attached the phone records of February 23, 2006, ( 22 minutes ), and call placed per Mr. Margolis request the following day February 24, 2006, number 9, where I was told Mr. Margolis was with a client and when I called back see number 10, I was told Mr. Margolis was in a conference and number 11, 2 minutes later after giving my name at the request of the receptionist and or secretary, I was put through to Mr. Margolis and he didn't answer. ( very creative in distorting the truth )

11. Look at the 1st contract dated October 07, 2005, and compare it to the contract dated October 21, 2005, ( we had him make changes to reflect some of the verbal actions during his preinterview via phone with us ( Regina and Allen Stamps ) he stated he would take; if we gave him the opportunity to represent us. Mr. Margolis stated how sorry ( see 1st contract) he was for what we had gone through and that previous counsels had failed us and it was improper and a violation of our constitutional rights what the Honorable Robert Benham did who knew better. Mr. Margolis stated he would investigate the misconduct ( he called it FRAUD) surrounding the Estate of Alfred Cash, Jr., ( see revised contract dated October 21, 2005 ) and other parties ( he said previous counsels to file an action ( malpractice against ) as well as Nadart and Schilling Lincoln Mercury. ( he advised of us after getting his retainer that we should leave Schilling off the complaint since Nadart was the one that improperly distributed our father's 401 (k) fund account ).

Mr. Margolis stated he viewed the evidence when he met with Kevin Cash on September 27, 2005, ( see 1st contract ) and we had a clear winning case of Fraud. We told Mr. Margolis we were convinced, all the attorneys in Memphis are

dishonest, corrupt, and we had no faith in them any longer, they say one thing and start doing another after you've hired them and that's been our case thus far. Mr. Margolis assured us he was different and didn't mingle in the social light with others. Mr. Margolis was very sincere sounding so I ( Regina asked this question "Are you vigorous enough to go after Nadart and Schilling Lincoln Mercury because that's what we're looking for someone to truly protect and fight for our rights as you say that have been violated ? His reply was yes ). We told Mr. Margolis if we hire you we don't want you communicating with the Defendants' before the Civil Lawsuit is Filed in Federal Court. Mr. Margolis paused a moment and agreed and it was at this moment he asked for a five thousand dollar fee for his services. We asked if he had mentioned this to Kevin because he never mentioned it to us regarding this fee, his reply was yes, we asked if we could call him back later as we needed to discuss this with our other siblings ( Alfred III and Doug Cash ). We immediately contacted Kevin who informed us that Mr. Margolis never mentioned a fee to him not during the phone conversation or the meeting; he was just very interested in taking the case especially when a former client had contacted him concerning our case. So, when

Kevin called he ( Mr. Margolis ) stated to him ( Kevin ) if you have everything you're telling me you have; we need to meet so they met.

Before, we retained Mr. Margolis services he laid out a course of action he planned to take: first file the Complaint in October 2005 no later than November 2005, as he stressed the importance of filing it timely because the sixth anniversary of our fathers' death was quickly approaching and the Complaint would need to be filed before January 14, 2006, so he had him put in the contract if the complaint was not filed by November 2005, as agreed, we would pay no more monies until it was filed ( see contracted dated October 21, 2005 ), second when Defendant's respond he will file his brief along with all the evidence showing the trail of Fraud and Conspiracy and after the filing of this the Defendants will make a serious settlement offer.

Now, after we retained Mr. Margolis he filed the Civil Lawsuit against Nadart ( see complaint dated December 09, 2005, ). Mr. Margolis stated he didn't file in November because his wife had been in a accident ( Regina sent a wish you well card c/o Mr. Margolis for his wife ), but failed to file against Schilling Lincoln Mercury Dealership ( as stated previously when we questioned this

Mr. Margolis response was let's just **sue NADART/NADA** they are the ones that improperly distributed the funds of your fathers 401(k) account.

12. Mr. Margolis letter dated April 27, 2006, response to complaint filed against him along with another letter dated April 27, 2006, demanding $412.10. This was the first time we had seen or heard of this charge it came only after the complaint was filed and when he answered the complaint did he enclose this fee to them as well this is a form of retailiation for filing the complaint. (see letters dated April 27, 2006)

13. Mr. Margolis letter dated April 10, 2006, with attached copy of Scheduling Order entered by the Court dated April 07, 2006, and both parties Disclosures, *****VERY IMPORTANT NOTE*** under Rule 26 (a)(1) disclosures made in this action, Mr. Margolis failed to DISCLOSE CRUCIAL Discoverable Evidence as he stated to clients he would do; as follows :**

1. **Affidavit of Mr. Thomas Vastrick, dated June 06, 2001, Mr. Margolis disclosed a copy of the Forensic Document Examination Report, dated, May 17, 2001,**

and drafted by Mr. Vastrick. There's a pattern or record by Counsels in entering Mr. Vastrick's Report Finding but ommitting Mr. Vastrick's, SWORN Affidavit, in which the Court wouldn't allow either. SEE : Hearing dated January 10, 2002, Mr. Seymour Rosenberg's, Memorandum Of Law In Support Of The Petitioners' Motion To Set Aside Judgment And For Rehearing and Mr. Julian T. Bolton's Supplemental Memorandum Of Law in Support of Petitioners' Amended Motion To Set Aside Judgment and for Rehearing, please refer back also to Mr. Margolis's Contractual Agreement, as he lays out, see page 2 of 4 , last sentence "As your attorney, I hereby warrant and agree that I have the following obligations to each of you individually and collectively as my clients:

1. I shall provide competent representation to a each of you. Competent representation requires the legal knowledg, skill, thoroughness, and preparation reasonably necessary for the representation.

2. I shall act with the reasonable diligence and promptness in my representation of

**you which includes the timely filing of all necessary pleadings and keeping you adequately appraised on case developments.**

**(***Please note that these conditions and caveats have been taken directly from the Tennessee Rules of Professional Conduct for Attorneys***)**

**2. Clients Perfection of Claim, SEE : Kevin Cash's perfected claim; attached to Mr. Bolton cover letter to Mr. Jim Apistolas, NADART's Investment Choice Plan Manager, dated January 11, 2002. RED FLAG, AS MS. Marie A. Washington never followed Mr. Apistolas request in giving the IC-10 Benefit Request Forms to us, istead she denied ever having knowledge of this but it's clear as Mr. Apistolas wrote in his letter to Her dated March14, 2000. SEE : Letter to Ms. Washington dated March 14, 2000, please.**

another factor in reference to the SCHEDULING ORDER hearing, ( Clients questioned him ( Mr. Margolis ), on the cancellation , as Mr. Margolis, made us believe the Court ( Honorable Judge Vescovo ), cancelled the hearing and it was after clients saw

defendants attorney of Glankler Brown ,Jeffery Jarratt, thanking him for calling Magistrate Judge Vescovo's, office and nudging her to enter the proposed, Scheduling Oder. ( once again misleading clients, not straightforward with the truth, not to mention changed course of actions) see all evidence and the depositions of the witness along with the Hearing dated January 10, 2002, Memorandum Law in Support Mr. Bolton's and Mr. Rosenberg's and Mr. Apistolas letter dated March 14, 2000, Mr. Vastrick 's report findings along with Affidavit, copy of Will ( once again Mr. Margolis wasn't truthful look at Miss Washington's cover clearly states address of Alfred and Doug Cash very deceptive no as he told us he's a litigator and he takes the law and the truth and twist it to his advantage well its clear)

14. Mr. Margolis letter dated April 13, 2006, Settlement Offer from Nadart ( see page 3 of 4 all evidence apply see Mrs. Hobbs and Miss Washington complaint filed July 26, 2002, see depositions of Wayne Williamson, Lisa Paton, Eddie McLaurin, Hearing, Supplemental Memorandum of Law in Support of Petitioners' Petition For Injunctive Relief ( that was never filed ), Memorandum Of Law In Support Of Petitioners' Motion To Set Aside Judgement And

Rehearing ( filed by Mr. Rosenberg's Motion To Set Aside, (that was denied and Mr. Magolis blames) under number 7 1st paragraph second sentence **"I have no doubt that your family has been defrauded, ( verifing clients claim ), disrespected ( slandered, injured by parties involved and then Mr. Margolis goes stating ), and quite frankly, put through the wringer in everything relating to your father's estate. I believe that you did not have effective assistance of counsel in Seymour Rosenberg ( who received a $ 5,600.00, check ( now see Mr. Magolis blaming Rosenberg "his misfeasance resulted in original order against you, Please, when is LAW going to step in for us, (Cash Heirs), made out to Mr. Rosenberg ( before he was our counsel) and Regina Cash that Miss Washington as ordered by the Probate Court ( " Judge said send the check to Cash Family and Mr. Rosenberg told Miss Washington send the check to me, as the Cash Family had filed a Verified claim against the Estate for funeral expenses they paid; Ms. Washington put in Mr. Rosenberg and Regina Cash name on the check and that's exactly what Mr. Rosenberg charged us for his service, and later received a check over $ 700 due to a lien he placed on the case although, in the contract we agreed that would be the total amount period; we can provide upon request, Mr. Margolis**

continues saying ) " and that you were the victim of fraud ( again verifing our complaint filed ), and that you were the victim of fraud on the part of Ms' Hobbes and Washington ( verified, merit, Complaint filed with the Board of Responsibility July 26, 2001, "Moral Turpitude," Knowling deprived us of the IC-10 Benefit Request Forms for fund held in the 401( K ), in March of 2000 ( see letter from Invest Choice Plan Manager, Jim Apistolas, to Ms. Washington dated March 14, 2000 and enjoined Mrs. Hobbs see Restraining Order ) and Schilling Motors ( Plan Administer signed our Perfected Claim see Mr. Bolton cover letter dated January 11, 2002, enjoined NADART, Joint Liability, see letter dated May 11, 2000, from McGuire Woods Battle & Booth also see May 02, 2000, facsimile trasmittal sheet to Probate Clerk Mr. Chris Thomas on May 02, 2000, during the hearing, notice all the writing "must have legal counsel, May 12th FRIDAY, Whether to convert Temp. Restraining Order to Temp. Injunction, No one to Disperse Funds untill TRIAL, 5/2/00 Jim Apistolas & Marilyn Ross ( attorney ) COMMUNICATE ABOVE INFO. THEY WILL CONTACT US FOR FURTHER PROCESS" and then Mr. Margolis letter continues stating ), " I believe that your father's signature was fraudulently placed on the beneficiary form ( verifing Forensic Expert

**Thomas Vastrick's findings and Affidavit, BURDEN OF PROOF ), and that the proceeds of the 401 (k) were improperly distributed ( to minor then adult now, Justin Alan McLaurin, inspite the Pefection of our Claims, MISAPPROPRIATION OF FUNDS ),** now last paragraph Unfortunately, the law is what the law is and the facts are what they are ( the fraud existed in 2000 when we tried to bring this Fraud upfront to put an end to it before, it reached this juncture and we were denied justice at every level, the law didn't apply to counsels when they sought an ex-parte relief on the restraining order nor did it apply to the contestment of the Will, dated October 16, 2000, or with the missing transcript of March 19th and 20th of 2002 that Mr. Margolis going to get since he said his wife was a court reporter and it shouldn't be hard to get because it not a lot of transcriptionist in Memphis or in counsels Hobbs's and Washington's, wantonness of the law ).

15. Email and via US mail dated April 07, 2006, from Cash Family rejecting settlement offer from Nadart ( once again Mr. Margolis was misleading see settlement offer from Nadart page 4 of 4 last statement ). **"Please talk among yourselves regarding your desires. In order to avoid having to answer the same questions several times, I**

**request that you memorialize any comments or questions to me in a letter so that I can give you detailed and appropriate response."** We have been compliance in every facet.

16. Mr. Margolis letter dated April 21, 2006, regretting our decision to the settlement offer of $7500.00 stating our decision is against his advice so he will need more than an email ( now, again we complied with Mr. Margolis wishes page 4 of 4, last statement and again changing his course with us ) Mr. Margolis sees as noncompliant when this was his request ( dishonest )

17. Mr. Margolis letter dated May 10, 2006, Motion To Withdraw ( We were completely astonished when we found out that Mr. Margolis Motion To Withdraw was granted **seven ( 7 ) days later** on May 17, 2006, when we received the May 23, 2006, letter without the other parties response well the Defendants responded as I was told when I contact the Law Clerk Miss Lisa Whitman as I inquired as to how did this happen without allowing us a chance to respond, I was informed that we have until June 26, 2006, to find counsel at such a critical state case of Fraud.

18. Mr. Margolis letter dated May 11, 2006,

Memorandum In Support Of Motion To Withdraw and Certificate of Cosultation

19. Mr. Margolis letter dated May 23, 2006, informing us that he didn't know his Motion had been granted **seven ( 7 ) days later** stating the Court clerk removed him from the notice list before the Order was entered as such he was not sent any notice that the Order was entered what we find so amazing is the response of the Defendants' was on the same day as the Order was granted I ( Regina ) was given this information by the court and that a modified order had been filed. Notice the swiftness that Mr. Margolis has in notifying opposing counsel and requested he start the 30 days from this date but if we need additional time, please let him know immediately and he will make the request, although he did state earlier he will not be receiving any notices as to any pleadings or filings in this cause. ( Mr. Margolis stated the matter is currently in Discovery, and the trial date is more than a year off, Movant's withdrawal should not result in a delay of the eventual trial of this action ). Mr. Margolis states should not (not would not ) so this could and already has resulted in a delay.

20. Mr. Margolis letter dated May 24, 2006,

informing us of a Motion that he filed asking the Court to give us additional time with which to find substitute counsel. Please note it is up to the Court to either grant this Motion or not. As things stand now, you are required to have new counsel report to Court by June 16, 2006. ( we didn't have a chance to respond; to his Motion To Withdraw as it was granted **seven ( 7 ) days later** ).

21. Mr. Margolis letter dated May 30, 2006, allowing additional time to file cousel granted by the court per his request previously. As stated previous I ( Regina ) had already placed a call immediately upon receipt of May 23, 2006, letter granting Mr. Margolis's Motion To Withdraw **seven ( 7 ) days later**, without hearing our response, I spoke with Miss Lisa Whitman Law Clerk of Honorable Vescovo, and was told the time frame of Jan 26, 2006, to seek new counsel. Now, Mr. Margolis told us his clients as a litigator he takes the truth and law and twists it to his advantage its clear that's what he's done here.

22. Here's a letter dated May 09, 2006, from a former client of Mr. Margolis, Heather Burdison take a look carefully at her letter ( see letter dated 5/9/06 ) and see how Mr. Margolis (

without the enormous amount of evidence that we have ) zealously worked her case, no up front retainer fees, no rejection of settlement to sign, her case had never been filed and when it was filed the statue had tolled, but they were able to get by this, the case had gone through several lawyers even one from Seymour Rosenberg's office, one lawyer let the case get dismissed without her knowledge, but it ended up in the hands of Mr. Margolis and it turned into a malpractice case, with everything that could go wrong it did go wrong during her case, Mr. Margolis was able to get everything done with no problem at all, now Heather was 3 months pregnant at the time of her incident and her son was five (5) years old when it was over. Mr. Margolis did this in less than a year, he retrieved a settlement that she was more than Happy with, Heather is the one that referred Kevin Cash to Mr. Margolis. Mr. Margolis did all of this with nothing to work with, we came to him with the preponderence of evidence, laid out before Mr. Margolis and paid Five Thousand ( $5000.00 ) dollars RED ALERT as it is clear disparity and discrimination here. Read Ms. Burdison's letter carefully; she will give testimony if needed.

23. Letter dated March 24, 2000, from Marilyn

Hobbs attorney for then minor Justin Alan McLaurin ( now, adult ) to Mr. Apistolas notifying him of the Restraining Order that Mrs. Hobbs enjoined with Miss Marie Washington attorney for **James Albert Cash**, Executor of the Estate of Alfred Cash, Jr., (C- 1427 Probate Court record ), filed on March 23, 2000, in which she sought **ex-parte relief,** Neither counsel notified our counsel Kathy Gomes, **see letter dated March 29, 2000, directly attached Ms. Gomes contacted Mrs. Hobbs, "stating documents which you claim show this interference were not attached to the Motion. As attorney for the adult children of Alfred Cash, Jr., I should have been notified of your application since you received ex-parte relief. In addition, it is my understanding that a Temporary Restraining Order only lasts fifteen (15) days before a hearing must be ordered. Please provide me with a copy of your supporting documentation and, in the future, please contact me before you seek ex-parte relief. Counsels Mrs.Hobbs or Miss Washington never complied with Miss Gomes request ( Law didn't apply to opposing counsels ( " Rule 3.4 (a),(d) Fairness to Opposing Party and Counsel a lawyer shall not: (a) unlawfully obstruct another party's access to evidence or unlawfully alter; destroy or conceal a document or other material having potential evidentiary value. ( see Board of**

Responsibility Complaint filed July 26, 2001, page 1 of Facts Of The Case ), Restraining Order filed three months after death of our beloved father Alfred Cash, Jr., states, see page 2, second paragragh "On belief Respondent was the sole drafter of the 401K agreement and beneficiary form and presumable reviewed the terms and benefits ( Respondent being Nadart, Please make note of this statement as you can refer back to it later, to see inconsistencies from past to present, please keep in mind when you view the Hearing on January 10, 2002, and when you view the depositions of Mr. Williamson, Vice President and General Manager of Schilling Lincoln Mercury Dealership, Mrs. Lisa Paton, former Office Manager of Schilling Lincoln Mercury Dealership ), of the agreement with the deceased prior to his execution of same. Respondent accepted monies from the deceased to fund the Plan and housed the agreement for nine years without challenging the completion of the beneficiary form or ineligibility of the named beneficiary to receive the funds under the beneficiary form. Please make note of this statement as Mrs. Hobbs states the agreement was housed for nine years, (now, NADART is denying they had anything to do with this, yet NADART let this go on without challenging Mrs. Hobbs and Miss Washington, attorney for James

Albert Cash, Executor of the Estate, sent a copy of the Will , see Miss Washington's letter dated February 17, 2000, for the Will location, also note the addresses for Alfred Cash, III & Doug Cash on here as Mr. Margolis stated he didn't have; to Mr. Apistolas trying to retrieve the monies for two of the brothers James Albert Cash and Robert Cash page 2 of the Will the 401K account number 412-68-1654 through my employer Schilling Lincoln Mercury, where's Nadart ???, what happened to the beneficiary form???, If it did have a designated beneficiary what is it doing in the Will it bypasses this , Red Flag, why are two of the brothers James Cash and Robert Cash devised and bequeath this money???, Red Flag , the IRA belonged to our former stepmother Mary Cash Dicson, in which Miss Washington took around nine or ten months to notify her; after I told our counsel Mr. Rosenberg and ( somehow, breached ) it got back to Miss Washington), Red Flag see page 1 LAST WILL AND TESTAMENT OF ALBERT CASH, JR., not his name it's Alfred but "Albert" is executor James Albert Cash's name, please take note under Article II regarding State Farm Life Insurance Policy, this belonged soley to the four natural heirs only but it states here devise and bequeath to my son, Justin A. McLaurin, then minor now adult. VIEW THIS WILL CAREFULLY PAY ATTENTION TO THE

**CONTESTING OF THE WILL NO DATE IN WITNESS WHEREOF,I HAVE SIGNED THIS INSTRUMENT AS MY LAST WILL AND TESTAMENT, IN THE PRESENCE OF THE INDIVIDUALS WITNESSING AT MY REQUEST, THIS_____ DAY_____, 1999, AT MEMPHIS, SHELBY COUNTY, TENNESSEE. AS YOU CAN CLEARLY SEE RED FLAGS ARE ALL OVER THIS DOCUMENT IN WHICH THE 401(K) ACCOUNT WAS BORN. ( FRAUD, FRAUD, FRAUD, FORGERY, FORGERY, FORGERY NO MATTER HOW YOU TWIST IT )**

24. NADART faxed dated May 02, 2000, letter to the Probate Court Clerk Mr. Chris Thomas from Mr. Jim Apistolas, Manager, Investment Choice Plans on National Automobile Dealers & Associates Retirement Trusts (NADART,on company letterhead, RE: Alfred Cash, boxed marked urgent) Mr. Wayne Williamson kept delaying the Court and a called had to be placed to him as Honorable Benham firmly offered the service of the Sheriff to escort Mr. Williamson if he didn't get to Court ; who was without counsel when he finally showed up ( see a more detailed account in Complaint against filed July 26, 2001 ), Make note of Mr. Williamson's writing on the cover letter May 12th FRIDAY circled with arrow pointing to Must have Counsel with two lines

drawn underneath, wheter to convert Temp. Restraining Order to Temp. Injunction, No ONE to Disperse FUNDS Untill TRIAL, 5/2/00 Jim & Marlyn Ross ( Attorney ) COMMUNICATE ABOVE INFO. They will Contact us For Further Process ( NADART ENJOINED no denying , once again perfect time to stand up and distant themselves and follow their Master Plan that they are govern by but they didn't liabile ), the Honorable Benham continued the hearing until counsel was sought by Mr. Williamson and Cash Family ( as our attorney Kathy Gomes withdrew May 01, 2000, verbally to us without official notice to the court and the Honorable Benham advised Court to contact Miss Gomes to put in a withdrawal with the Court ), until May 12, 2000.

25. McGuire woods Battle & Booth firm letter dated May 11, 2000, letter to Jim Apistolas, Manager, Investment Choice Plans National Automobile Dealers & Associates Retirement Trusts, confirming counsels Miss Washington and Mrs. Hobbs have stipulated that Nadart and Wayne Williamson ( Vice President/General Manager of Schilling Lincoln Mercury once again notice his titles and the company ), need not appear at the hearing on the above referenced matter. In addition, our local counsel, Kevin Cox of Glankler Brown, arrow pointing to name with

a phone number 525-1322, has confirmed with Judge Benham's clerk that the appearance of Nadart and the dealership is unnecessary. Mr. Cox will appear at the hearing and advis the court that NADART and the dealership have turned over the relevant documents to the parties regarding the 401K plan and that NADART is prepared to interplead the funds to the court or hold the funds in a constructive trust until the beneficiary dispute is resolved. This is from Lawrence P. Sandor and he CC: Kevin Cox , Wayne Williamson and Marilyn Ross.
**Important Fact, this was the Perfect opporunity for NADART to state their noninvolvement as Schilling was without counsel but instead NADART complied in every way with this action they had Knowledge of the beneficiary form and said or did nothing, they enjoined in this act of .. FRAUD as you can CLEARLY SEE BY THEIR OWN ADMISSIONS HERE NOTICE ALL THE REDS, NADART AND WAYNE WILLIAMSON, NADART AND THE DEALERSHIP, 401K PLAN, INTERPLEAD (THEY NEVER DID, " an eequitable action in which a debtor, not knowing whom among his creditors a certain debt is owed, and having no CLAIM or STAKE in the fund or other thing in dispute other than its proper disposition, will petition a court to require that the creditors litigate the claim among**

**themselves", AND LAST BUT CERTAINLY NOT LEAST THE FRAUDULENT BENEFICIARY FORM. CLEAR LIABILITY.**

26. Mrs. Hobbs letter dated May 15, 2000, see second paragraph "Well, it is my information that all parties are now in agreement and will consent to the funds held by NADART to be issued to the Estate of Justin Alan McLaurin (then minor now adult ). Once more Nadart HELD BY clearly established no denying and Mrs. Hobbs attached CONSENT ORDERS ( WAIVER FORMS) FOR OUR CONSENT TO ALL RIGHTS, TITILE AND INTEREST IN THE SCHILLING LINCOLN MERCURY NADART SALARY DEFERRAL 401K PROFIT SHARING PLAN #400073 HELD FOR THE BENEFIT OF ALFRED CASH, JR., DECEASED, WAIVE NOTICE OF A FINAL ACCOUNTING FROM NADART AND CONSENT TO THE RELEASE OF SAID FUNDS TO MARILYN SELLERS-HOBBS, ATTORNEY FOR ESTATE OF JUSTIN ALAN McLAURIN, A MINOR. AS A REMINDER PLEASE KEEP AND MAKE NOTE OF HOW OFTEN THE CHANGES TAKE PLACE: NADART, NADA, SCHILLING LINCOLN MERCURY NADART SALARY DEFERRAL 401K PROFIT SHARING PLAN. There is one thing we all can be sure of is

NADART'S clear concise connection ( too late to try and separate yourselves, now) with Schilling Lincoln Mercury. Instant, red flag Why would you send out these forms and you're client the MINOR now adult Justin McLaurin was the beneficiary FRAUD, FORGERY see Complaint filed July 26, 2001.

27. Seymour Rosenberg letter dated August 24, 2000, to Regina Cash-Stamps informing her of the Release of Verified Claim, in which we had to file a claim against our Fathers Estate to recover funeral expenses that the executor James Albert Cash was suppose to pay, a Court Order, Quit Claim Deed ( they Quit Claimed our home to add the then minor, now adult Justin McLaurin name on it and **Miss Washington sent the Schilling Motors Profit Sharing Plan Designation of Beneficiary Page RED FLAG injurious, damaging,deceptive, dishonest, cunning ).**

28. Mrs. Hobbs letter dated October 26, 2000, verifing receipt of his letter dated October 26, 2000, requesting the original Designated Beneficiary Form of Alfred Cash, deceased. Unfortunately, I must advise you that you are directing your request to the wrong estate. **RED FLAG Mrs. Hobbs is the counsel for the minor**

**then now adult, Justin McLaurin who she states is the beneficiary on the purported designated beneficiary form, why would she send out waiver forms to Us ( CASH HEIRS ) and why wouldn't she have this form as she claimed previously her minor client was the beneficiary refer back to Restraining Order filed, Orders, Please remember Miss Washington attorney for Executor of the Estate of Alfred Cash, Jr., C-1427 in Probate Court sent a Will to the Investment Choice Plans Manager, Jim Apistolas, trying to retrieve the monies for her client, James "ALBERT" Cash, and Robert Cash as it states in the Will ( see again), deceiving, misleading, dishonest, underhanded, mischievous, damaging.** Mrs. Hobbs works as a Juvenile defendant (wow) SEE Complaint filed July 26, 2001

29. Seymour Rosenberg letter dated November 21, 2000, to Mrs. Hobbs requesting yet again the Designated Beneficiary informing her the form was filed with the Court on July 27, 2000, where she obtained the NADART benefits for minor client, Justin Alan McLaurin ( adult now ). Noncompliant

30. Seymour Rosenberg letter dated November 21, 2000, to Mr. Kevin Cox, referring to his letter dated October 23, 2000, along with 3 questions

that Mr. Rosenberg asked and attached the know your rights, under the Employee Retirement Income Security Act of 1974, also called ERISA, you are entitled to certain rights and protection as a participants shall be entitled to : If you request certain materials from the Plan, and they are not provide to you within 30 days, you may file suit in federal court. In such a case, the court may impose penalties up to $100 per day until you receive the materials, unless the materials were not sent for reasons beyond the control of the Plan Administrator. ( never received a response, fraud committed )

31. Mr. Wayne Williamson deposition taken February 16, 2001, **now I asked you to please make note of the many changes from past to present. Please read these particular pages carefully: page 6 lines 1-25 , page 7 1- 25, page 8 lines 1-25, page 9 lines 1-25, page 10 lines 1-25, page 11 lines 1-25, page 12, 13, 14, 15, 16, 17, lines 1-25, page 18 lines 10-22, page 22 lines 1-25, page 23 lines 10-21 (Profit Sharing and 401K and that's exactly what Mrs. Hobbs asked the court for her client ) and line 25, page 24 lines 1-25, page 25 lines 1-24, page 26, 27, 28, 29, 30 lines 1-25 31 lines 1-18, keep in Mind, Mr, Cox is counsel of record and this is a sworn deposition you can refer back to this later Please see the**

attached exhibits as well, Nadart's Beneficiary Form, called IC-30 now look at the Schilling Motors, INC. ( NOTICE SPACE HERE ) PROFIT SHARING PLAN DESIGNATION OF BENEFICIARY PRESENTED BY SCHILLING LINCOLN MERCURY VICE PRESIDENT AND GENERAL MANAGER MR. WAYNE WILLIAMSON WITOUT A SOCIAL SECURITY NUMBER ON IT 3 DEPOSITION EXHIBIT 2-16-01

32. Compliant filed against Marie A. Washington and Marilynn Sellers-Hobbs, filed July 26, 2001, we tried to stop this before it reached this point. FRAUD AND CONSPIRACY TO CONCEAL THE FRAUD

33. Mrs. Lisa Paton deposition taken December 14, 2001, Attorney/Commissioner Julian T. Bolton of The Cochran Firm Mrs. Paton is the former Office Manager of Schilling Lincoln Mercury Please read her deposition carefully and keep in mind the many changes page 15,16 reference the social security number she added on the deceased beneficiary form, 18 this is where defendants witness Travis Anderson comes in also notice now NADART didn't give any employee beneficiary forms, 19 Is this form a Schilling form? Yes, sir Q. First Tennessee form ? A. No, it's a Schilling

form Please read carefully as you can refer back to later when it comes to the Hearing dated January 10, 2002, page 20 regarding writing on the beneficiary form, now, page 24 look at line 17 Q. Did you have a 401k with Schilling ? A. Yes, sir line 19 Q. Did you fill out the same form? line 20-21 A. No, I wasn't-- I was later. 21 This form was like from the old First Tennesse. ( we thought earlier it was a Schilling Form RED FLAG ), page 25 1-25, page 26 1- 17 writing the social security number on the beneficiary as Travis Anderson (works at NADART Team Leader, he was CC in on not having a properly completely beneficiary form, see letter dated March 14, 2000, to Miss Washington) needed it to identify Mr. Alfred Cash, Jr.,'s , 401k fund clearly this witness participated in this act as well he did have a Social Security number which in fact is the Members of the Plan, Identification Number it should have gone no futher but as stated previously they continued on with this criminal act, page35
especially lines 7-22 Q. Did you ever have occasion to meet young Mr. Justin McLaurin? 9 A. No, sir line 10 Q. When did you first become aware that Mr. Justin McLaurin was Mr. Cash's son? 12 A. I guess at the time I saw this beneficiary form because the name wasn't familiar to me. I don't remember if one of the employees told me or if James Cash told me who he was. I know both of

**them told me, but I don't remember who said it first, you know, see line 24 A. Right. But I'm pretty-- thinking back, I'm pretty I sure it was Mr. James Cash that told.** Please se Exhibits 1 to counsels Ms.Washington, Ms. Hobbs and Mr. Kevin C. Cox, Attorney for Schilling Lincoln Mercury And National Automobile Dealers' Assn. Retirement Trust c/o Glankler Brown, PLLC, Exhibit 2 Beneficiary Form that Mrs. Paton affixed our deceased father Alfred Cash, Jr., 's Social Security Number to as she states in her sworn deposition there was no where on the form for it **RED FLAG FORGERY, FRAUD,** Exhibit 3 Mr. Apistolas letter to Ms. Washington dated March 14, 2000, and this is how he retrieve our names off of the Will ( yet Mr. Margolis states he wasn't provided Alfred and Doug Cash's address, when he clearly has the evidence, misleading ), Exhibit 4 Humana Exhibit 5 suppose to back of Humana.

34. Mr. Eddie McLaurin deposition dated December 14, 2001, see page 18 lines 2-25, 2 Q. Would it have been Wayne Williamson. 3 A. That's the name,Williamson.
4 Q. What did he tell You ? 5 A. I just don't remember all of that. 6. Q. Did he tell you that there was a pool of funds for Justin or not ? 8 A. No, not Justin. He told me that Al-- Al had a 401K, but he didn't tell me who the beneficiary

was or anything like that. 11. Did you inquire specifically about Justin? 13 A. Yeah. 16 A. If I recall correctly he told me he couldn't give out that information because he was unsure of the beneficiary or something like that if I recall correctly. **RED FLAG what's wrong here this is the Guardian of the then minor Justin McLaurin now adult, who received the 401k funds and yet he the Vice President and General Manager of Schilling Lincoln Mercury was unsure of the beneficiary but he produced the beneficiary without the Social Security number see his sworn deposition see page 23 line 10 Do you remember giving a copy of the beneficiary form from First Tennessee ( not the Schilling form but now see change please continue to reference back from time to time for later as well) to anyone? 12 A. This? 13 Q. Uh-huh 14 A. Yes, sir, because we had to send it to NADART. They called me on that, ( knowing no social security number was on here as established see Mrs. Paton deposition ( added Social Security number for Team Leader Travis Anderson at NADART, enjoined Schilling and Nadart was always in this criminal act together, fully aware, when they received the fax from Schilling and by their clients own sworn testimony/depositions, as well as letter to Ms. Washington, more importantly we asked previously, Please make note of the changes, now its a First Tennessee form ( why does**

**it have Schilling Motors ??? and not First Tennessee???, see page 23 lines 19 Q. It's a First Tennessee beneficiary form ? line 21 A.Yes, sir, line 22 Q. Did you send it to anyone else? line 23 A. Not unless legally someone's asked for it, no, sir. etc., FRAUD, FORGERY ) so, we sent it to NADART.** page 21 lines 1-25, notice the beneficiary form Mr. Bolton presented to Guardian Mr. Eddie McLaurin line 3 Is there anything incorrect on that form? 4 A. Is that suppose to be Justin's address up there, 4582 Tulane or is that Al's address? 6 Q. You know, it's pretty clear on the record as to what it says. I, mean, I cannot coach you on it. I'm sorry. 9 A. Well, I would have to assume, it's correct then. 11 Q. Did Justin ever live at 4582 Tulane? 12 A. Ever live there, no, visited, I guess. because I don't know Al's address, his address. 14 Q. But you would know where Justin lives ? 15 A. Yeah, I know where he lives. 16 Q. Where does he live ? 17 A. 4140 Double Tree Road. 18 Q. So that's incorrect, then, is that right, if that's to represent Justin's address ? 20 A. That's incorrect then. 21 Q. Do you have any idea who might have put that address on the form? 23 A. None whatsoever. **24 Q. When did you first see this form? 25 A. If I'm not mistaken, just now. RED ALERT the guardian had never seen the beneficiary form yet Justin was the beneficiary and Mr. McLaurin is the adult Guardian who**

**handles the then minor, now adult, affairs. Need we present more, it's mind blowing, now, Please how can defendants state we (Cash heirs ), have litigated matter?**

35. Hearing recorded Thursday, January 10, 2002, Please read Carefully
page 5 read all look at line23-25 the objection presented by Respondents in this case us technicl and merely an page 6 attempt to prevent the evidence which supports the original Motion from coming forward.

page 6 line 4 And, Your honor, under the Rules of Evidence regarding amendments, the Court certainly has discretion to allow amendments through trial, even after a ruling, under the Rules of Evidence on Amendements and Supplemental Pleadings 15.01 and --

page 6 lines 17-25 And the Rule of Civil Procedure states, quite frankly, that the Court has leave to allow for Amendments, first of all, in the interests of justice; but also, relative to the proof as it develops; and that you have full discretion to allow the Amendments, and if-- you find it in 15.01 and 15.02,

page 7 lines 1-25 Amendments to conform to

evidence.

page 8 lines 1-25 opposing party plenty of notice as to what evidence he had relating to the original Motion. line 11, we are attacking the validity of the document, and under Paragraph 3, Petitioners will show that the beneficiary form is not the beneficiary form produced on behalf of Justin McLaurion at the July 27, 2000, meeting-- and that is what the proof will show. line 19-25 And further, we are going to prove, under Paragraph 4, that the beneficiary form that was on file with NADART at the time of decedent's death was not the form presented at the July 27th hearing.

page 9 lines 1- 25, lines 2-7 The Court: What you want me to do is review the July 27th hearing. Mr. Bolton, Your Honor, I would like for you to hear the proof of fraud, in the interests of justice and equity.

page 23 lines 1-25

page 24 lines 1-25, lines 1-7 And all I would like the Court to do, Your honor, in the interests of justice and equity-- and that is all my clients wants -- all I as the Court to do is not rule until we have an opportunity to put the first iota of

evidence before the Court.

page 24 lines12 - 14 The Court: Are we operating under the Rule or not operating under the Rule ?

page 24 lines 15-17 Mr. Bolton : We are now, Your Honor, I have just informed opposing counsel that we are.

page 24 lines 18-22 The Court : I am not getting into forgeries or anything like that. All we are getting into is No. 2, that the Court find the decedent-- strike that .

page 28 line 1-25, lines 11-13 The Court : I don't keep the records. There was a form presented, and I don't keep the exhibits.

page 28 lines 20-24 Ms. Washington : The only form I have is the one at the July hearing, that he had, because he sent it to me before. But we have the same form--

page 29 lines 1-25, lines 3-5 The Court : Each of you, give me what you contend was the form--

page 29 lines 6-13 Ms. Washington : I definitely have it. Ms. Hobbs : Your Honor, this is the

form that NADART and Schilling faxed to each other four days after the decedent's death, and this is the form that was presented at the July 27th hearing.

page 29 lines 14-18 Ms. Washington : Your Honor, I have three forms, and they are all the same. They are the same. The Court : Let me look at them. lines 22-24 Mr. Bolton : Yes, I just wanted to be sure that there is no issue about any form I present,

page 30 lines 1-25, line 21-25 The Court : there are two pages. One is the Schilling Inc., Profit-sharing Plan Designation of Beneficiary; and then there are some computer-generated printouts attached

page 32 lines 1-6, The Court : file I have a copy of the Designation of Beneficiaries identical to what we show. I am going to have the Court Reporter mark what's been in my file. It's been in my office since July. We will mark that as Exhibit 1, ( now, the Honorable stated on page 28 lines 11-13 " The Court : I don't keep the records. There was a form presented, and I don't keep the exhibits. ( as you can see something is extremely wrong, we would not have believed this if we weren't there )

page 32 lines 1-25, lines 7- 25, Mr. Bolton : May I ask, for the record, whether it was in the official Court file ? The Court : No, This was in my parallel file I keep in my office. Mr. Bolton : May I ask just for the record, Your Honor, would you have gotten it from the original official Court file? The Clerk : Yes. The Court : I would have gotten it from whatever was introduced at that time. Mr. Bolton : Would it be the document introduced, or a copy of it ? I am just asking. The Court : This is a copy of whatever was introduced. And I don't recall whether it was an original

page 33 lines 1-25, or a copy that was introduced, but this is a photocopy of whatever was introduced in July that I happen to keep in -- in complex cases, I keep a parallel file. That's where this came from. Mr. Bolton : May I see it? The Court : Show that to Commissioner Bolton, ( notice the Honorable Benham was getting upset and Mr. Bolton went from being called Mr. Bolton in attorney capacity to now, Commissioner Bolton, we were in sure awe) Mr. Bolton : And this will be the exhibit without the attachments, is that correct ? The Court : Yes. Mr. Bolton : Thank you. The Court : That is what was utilized on July 27th. ( WHEREUPON,

EXHIBIT 1 WAS MARKED AS REQUESTED. ) Mr. Bolton : Is Your Honor ready ? The Court: I am ready for the proof as to that not being the form that NADART had on file at the time of decedent's death. ( Nadart never challenged the beneficiary form instead enjoined ) Mr. Bolton : Yes, Your

page 34 lines 1-25, Honor, I would like to call Mr. Vastric ( phonetic). But before he comes in, Your Honor, I want to reiterate, I called for the Rule. I know that there are witmesses here that may expect to testify,

page 34 lines 7-12, The Court : Mr. Vastric is going to testify as to forgery. He is not going to testify as to whether or not it was the form produced on behalf of Justin McLaurin at the July 27th , 2000, hearing.

page 34 lines 13-15, Mr. Bolton : We'd get to that, Your Honor, as to when this signature actually occurred.

page34 lines 16-17, The Court : That is the form that was presented July 27th, 2000. page 34 lines18-19, Mr. Bolton : I understand, Your Honor. Does Your Honor-- page 34 lines 20-22 The Court : You have the latitude to prove that

is not what NADART had on file. ( NADART accepted this )

page 34 lines 23-25 Mr. Bolton: Your Honor, I would have to prove it by proving that, in fact, this was not his signature.

page 35 lines 1-25 , lines 1-10 The Court : Whether or not it is not his signature has nothing to do with whether or not NADART had that on file, Comissioner. Mr. Bolton : Your Honor, let me just explain, Your Honor, so that you will understand my approach. And, of course, I had intended to approach it differently; but I am conforming to--

page 35 lines 18-23, Mr. Bolton : Now, quite frankly, what we are going to prove is that this is a transfer, that this is not the document he signed on January 2nd, 1990. And so it was not the document that was in there at the time of his death.

page 35 lines 24-25, The Court : Are you going to prove-- you are going to try to prove

page 36 lines 1-25, line 1-11 that it was a forgery, which is the allegations in the Amended Motion, and the Court is **not allowing the**

**Amended Motion because nobody ever asked the Court to do it, and that came in long after the fact of what we are working with right now, is the Motion to Set Aside the Pending Order, that the beneficiary form is not the form produced on behalf of Justin McLaurin at the July 27,2000, hearing. ( as stated previously, we never had a chance to present our evidence in the interest of justice )**

page 39 lines 1-25, lines 4-22 Ms. Washington : Your Honor, we are going to objec to the testimony of Mr. Vastric because his clients had an opportunity to subpoena NADART. There were numerous subpoenas, and that is why all these people are her. He has subpoenaed all of these people, and it has nothing to do with what we are doing. ( she's righ. : has nothing to do with what we are doing IT HAS EVERTHING TO DO WITH IT )

page 39 lines 16-22 Mr. Vastric is a handwriting expert. He does not work for NADART. He has no connection with NADART. He cannot testify to anything in NADART'S files because he does not have anything in NADART"S file. ( Wow, what a **bold statement Mr. Vastrick does not have anything in NADART'S file, Ms. Washington by her own admission here. FRAUD,**

**FORGERY, and Mr. Vastrick was baffled as to why he wasn't allowed to testify.** page 39 lines 23-25 What's seems to be occurring is a Pandora's box is going to be opened up through a back door. ( now, if you've done nothing wrong why object to his testimony, we couldn't or allowed to object to Ms. Washington and Mrs. Hobbs Restraining Order as ex-parte relief was granted, as we stated on numerous times to each of our counsels why does the Laws apply to us but not NADART or opposing counsels just look at the wrongdoings )

Please read the Hearing and it shows the trail of Fraud and Conspiracy to Conceal the Fraud that is actively growing it has to end we beg of you, put an end to this madness.

36. Mr. Julian T. Bolton letter to Mr. Apistolas, dated January 11, 2002, informing him that he ( Mr. Bolton ) advised us ( his Clients at the time ) to Perfect our Claim ( see Kevin Cash Perfected NADART Claim ) attached.

37. *READ CAREFULLY * Mr. Julian T. Bolton, SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' AMENDED MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING, ( MR. BOLTON WAS NOT

ALLOWED TO PUT ON THE EXPERT; AND THE COURT DENIED OUR MOTION, as we have a record, so, that we could file our complaint in Federal Court, dated January 08, 2002 ), now read the PETITION FOR INJUCNCTIVE RELIEF attached with Laws and Penalties, he faxed to clients J as he was to file this in Federal Court and he never did; Mr. Bolton stated the purpose for the hearing was to get the evidence on record to so, that we can file a civil lawsuit in Federal Court . ( mislead us )

38. Mr. Julian T. Bolton letter dated January 28, 2002, to Counsels Kevin Cox, Marilyn Sellers-Hobbs and Marie Washington, presenting his Alternative Order to Mrs. Hobbs first Order, as he took issue with all the findings of fact ( deceptive ), we asked ourselves since when does the Plaintiffs attorney prepare an Order on a denied Motion ( he did say although the judge clearly denied our motion, I take issue with all the findings of fact, which are spelled out in the order presented to me by Ms. Hobbs, we have a transcript of the proceedings so, there will be no issue regarding what happened in the event that the matter is appealed. ( never filed the Petition For Injunctive or the Civil Lawsuit in Federal Court, as agreed, what is wrong with counsels ? ).

39. Mrs. Hobbs first Order presented to Mr. Bolton, ***Please not first page, last paragraph, very last sentence Kevin Cox, attorney appeared for NADART and submitted the beneficiary form wherein Justin Alan ( refer to depositions, hearing, Restraining Order, as all the evidence apply ).

40. Mrs. Hobbs revised 2nd Order after Mr. Bolton presented his to her, ***Please note Kevin Cox, attorney appeared for NADART and submitted the beneficiary form wherein Justin Alan ( as this was the order signed; February 05, 2002, refer back to facts of evidence )

41. Mr. Julian T. Bolton letter dated July 26, 2002, to all counsels Marilyn Sellers-Hobbs, Marie Washington, Kevin Cox, reminding them of what Honorable Benham suggested, that we ought to settle this matter prior to any kind of will contest. I think that under the circumstances of this case and based on the proof that we have collected, that it is in the best interes of the **family to settle this matter. It is also in the best interest of NADART to settle this matter or else they may have to pay twice. ( Now, Mr. Bolton ask if we would give them a chance to clean up, now, we gave each nothing but chance after chance; opportunity after**

**opportunity; and for what the continuation of active conspiracy to conceal the Fraud and Forgery that has been committed; where is justice for us, we've never acted outside of the laws, but we can't say the same for counsels )**

42. Miss Washington letter dated February 17, 2000, attached along with Will, RED ALERT RED FLAG, RED FLAG, RED FLAG You mean to tell us a man such as Alfred Cash, Jr., who owned and ran several businesses, work with contracts as he had to pay attention to details ( see Wayne Williamson's deposition as he states himself, Mr, Alfred Cash, Jr., was one who paid attention to details ), didn't Notice the only place that has your name on a big heading of an Official Document in Preparing for your last wishes that you want carried out, ( this saddens us deeply, it's painful to see the injustice that has taken place here our father is not at peace ) and you or the attorneys that drafted the Will, the individuals witnessing ( Lyttonia Cunningham, attorney, her deposition provided upon request and Danielle Lane Her deposition provided upon request) the document or the attorney that notarized the document that's missing the inked stamp ( Michael Harrell who James Albert Cash, stated he knew Mr. Harrell twenty prior and a business card was given to him back then with

the Name, Number, Address and even before he became an attorney, accordingly to Mr. James Albert Cash's deposition will provide upon request now, that's truly amazing ), and you don't recognize your name isn't Albert, not to mention you put in an IRA that belonged to his ex-wife Mary Cash Dicson, but you devised and bequeath it to your brothers when you had another brother living then as well, your 401K account number 412-68-1654 which by the way is your NADART'S Plan number and you devise and bequeath this to your two brothers James Albert Cash and Robert Cash, but now there's a purported beneficiary forming naming your minor child ( Justin now adult ) who never lived at 4582 Tulane, your former office manager Lisa Paton of Schilling who handled important documents wasn't familiar with Justin only after death did they know and how through James Albert Cash, James Cash introduced Justin McLaurin as our brother the night of the Wake turn of strange events, FRAUD.

43. Mr. Thomas Vastrick, Forensic Document Examiner. Here is a copy of the Forensic Document Examination Report these are the documents Q-! Copy of Schilling Motors, Inc.Profit Sharing Designation of Beneficiary dated January 2, 1990, Exhibit 10. Findings

The questioned signature entry on Exhibit Q-1 bears indications of having been written by Alfred cash, Jr., ( K-1). However, there is evidence that this signature did not originate on Exhibit Q-1. The questioned entry and the associated date entry sit significantly above the writing line. Examination of the submitted known handwriting specimens of Alfred Cash, Jr., demonstrate a habit, over a period of ten years, to write directly on the baseline. Based on this examination, it is my opinion that the questioned signature on Exhibit Q-1 is the product of an attempt to transfer the signature from an unknown document onto Exhibit Q-1.

44. Mr. Thomas Vastrick sworn AFFIDAVIT ( This is the document no counsel ever wanted out Mr. Rosenberg was the only one to reference it in his Memorandum Law IN SUPPORT OF THE PETITIONERS' MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING, AS YOU CLEARLY CAN SEE IN THE HEARING HONORABLE BENHAM WOULDN'T ALLOW MR. VASTRICK TESTIMONY DENYING OUR MOTION THUS DENYING OF JUSTICE, THIS IS A MISCARRIAGE OF JUSTICE.

45. Mr. Seymour Rosenberg MEMORANDUM OF LAW IN SUPPORT OF THE PETTIONERS'

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MOTION TO SET ASIDE JUDMENT AND FOR REHEARING, In this Memorandum, Mr. Rosenberg statements of facts shows Schilling Lincoln Mercury NADART Salary Deferral 401 (K) Profit Sharing Plan, " the NADART Plan" valued at approximately thirty-two thousand, five hundred (32,500) dollars. ( Court Ordered October 16, 2000 ),

In Mr. Margolis's Response to the Board of Professional Responsibility page 2 , first (1st) paragraph, stated our agreement to accept a settlement offer; this was never discussed with Mr. Margolis ( false, what he did say is after he filed his brief attaching the evidence; NADART will make a serious offer; as they did not want this in Court and when the questioned was asked "If this case does go to Court before it could be finished it won't we'd WIN, NADART will settle ), or he never promised ( he's right he never used the word promised ( he altered, reworded, mixed the truth ) to file a brief ( refer back to letter dated March 13, 2006, he misrepresented, misstated, misquoted, in his response),we wonder why Mr. Margolis didn't include this in his response or the now demanded fee of $412.10 dated April 27, 2006, and he he did it certainly was not in our copy of his Response with exhibits attached.

Mr. Margolis states in his response: stated loudness and angry tone exhibited by the clients. ( we have proof indicating otherwise, upon request, as his ( Margolis ) letter continues ), "and he states he drafted a rather lengthy letter to Ms. Stamps ( Mr. Margolis failed to state per Mr. Stamps's request so that Mrs. Stamps ( client ) would know; what was discussed in the meeting ,once again perfect time to address the conduct/behavior if it were true, Mr. Margolis letter continues )," in my copy of the response", I, Regina Cash Stamps, did not have exhibit F attached to the copy sent to me from Mr. Margolis, so, please refer back to this document with the exhibits I, Regina Cash Stamps was sent, here in its entirety.

Mr. Margolis states in response timely filing page 2 of response paragraph 2, refer to the December 09, 2005, Complaint against NADART stamped, 2005-DEC-9 PM 1:05 page 1 of Mr. Margolis's cover letter dated December 09, 2005, Docket No. 05-2917 B An, * Important Note*, we have or see B/V on our copy, where is on our copy of the complaint ?

Mr. Matgolis is trying to get us to accept the Seventy hundred ($7500.00) dollar offer from

NADART see Exhibit B of April 27, 2006, response, Mr. Margolis lays out all of the can'ts and why not's, when he distinctly knows this is and was not what he told us Five Thousand ( $5000.00 ) dollars later, Mr. Margolis, with his misfeasance, and being supplied with the preponderence of evidence, laid out before him in this malicious criminal act; knowing we've been denied justice and our evidence never allowed by the Probate Court or any Court and although counsels told us they would file Federally, they never did **( Mr. Rosenberg see letter dated November 21, 2000, attaching a copy of ERISA's KNOW YOUR RIGHTS never filed Federally and Mr. Bolton's Petition For INJUCTIVE RELIEF, we came to the Coachran Firm to file a Civil Lawsuit in Federal Court when Mr. Bolton stepped in; to take the case himself, as we were there to see Johnnie Coachran ( he wasn't there and when we spoke with the investigator at the Coachran Firm he stated " This needs to go straight to the top ( Mr. Johnnie Cochran ) and that's what I'm going to do today, as they were interviewing valid cases to pull in clients during their grand opening, Mr. Bolton never filed Federally ), one things clear here it's always been out contention to file in Federal Court a Civil Action against NADART and Schilling, even though it has been established in the evidence**

**you have before you, this would avoid Nadart from Schilling from shifting the burden of proof )** so, instead of Mr. Margolis zealously advocating for his clients ( refer to settlement letter dated April 13, 2006, and as Exhibit B, in response; he could have at the very least when he states Nadart has a good defense ( fraud committed by NADART and SCHILLING and conspiracy to conceal ), as to Res Judicata ( been decided ), what about **ESTOPPEL BY JUDMENT,** estoppel "brought about by judgment of a court, the essence of which is that a similar question of fact presently in dispute has been previously determined by a court of competent jurisdiction ( Probate Court never allowed us to present evidence see Hearing, dated January 10, 2002, where expert witness was not allowed to testify pages 24, 28, 29, 35 lines 24-25, 36 lines 1-5 **"that it was a forgery, which is the allegations in the Amended Motion, and the Cort is not allowing the Amended Motion because nobody ever asked the Court to do it"**, 37, 38 lines 1 - 25 , 39 lines 1 - 25, or Mr.Vastrick's Affidavit dated June 06, 2001, never entered into evidence see pag 23 of Hearing lines 21 -25 "no evidence has been presented on behalf of my clients, even today. Even the affidavit, Your Honor, is not evidence. It was merely notice to them.", only Mr. Vastrick's Report Findings see Mr. Bolton,

Supplemental Memorandum Law In Support of Petitioners' Amended Motion To Set Aside, which the Court denied, exhibit 10 ) between the same parties( Cash vs. Nadart/Schilling) or their privies. 117 F. 2d 672, 678. Where is the diligent advocating Mr. Margolis mentioned ???as you look over the Hearing, dated January 10, 2002, you can clearly see the Miscarriage of Justice.

46. Mr. Margolis letter date April 13, 2006, stated on page 4 of 4 "After Mr. Rosenberg was discharged, during period of months when you could not obtain a substitute attorney and consequently acted as your own counsel ( writing letter to and making appearances before the Court ) many of your right were irreparably damaged and lost. Please note on the Memorandum of Law In Support Of The Petitioners' Motion To Set Aside Judgment And For Rehearing 1st page last paragraph, "The Petitioners were present at this hearing, unrepresented by counsel despite the advice of this honorable Court. ( Court Ordered Entered October 16, 2000.) While the Petitioners had followed the Court advice and obtained counsel, they released the same after being advised of the difficulty of proving their suspicions that undue infleuence had been exerted upon their father in the making of his will. Ms. Gomes withdrew as

stated previously, and you see we complied with the Court and retained counsel, ( misleading by Mr. Margolis ), page 2 of Memorandum " Pending the order of this Court, the Petitioner again retained counsel to investigate the continued rumors of wrongdoing within the distribution of their father's estate. During said investigation, it was discovered that the Designation of Beneficiary Form, presented to the Court, was substantially different than the standard form used by NADART. It was also discovered that Schilling Lincoln Mercury's 401(k) plan was actually administered by First Tennessee Bank at the date noted on the NADART form presented to this Court. ( RED ALERT), ( once again Mr. Margolis was very misrepresenting in his response to this claim in his response ). At which time, the Petitioners filed their first, (1), Motion to Set Aside Judgment. ( once more, Mr. Margolis is misleading, deceptive ) Since that time, it has been determined that the signature on the Designation of Beneficiary Form apparently originated on some document other than the form to which it is now affixed. (Vastrick Aff.) Thus, the document received into evidence was a forgery, constituting fraud upon the Court. The Petitioners now seek to have this Court judgment set aside pursuant to Rule 60.02 of the Tenn. R. Civ. P. ( we're assuming Tennesse

Rule 60.02 of Tennessee Rules Of Civil Procedures ), specifically adopted by the Shelby County Probate Court under Rule III. Now, Mr. Margolis reference to letter writing, and making appearances before the Court acting as your own counsel many of your rights were irreparably damaged and lost. By the time Mr. Bolton came on board there was little he could do ( well, as you can clearly see Mr. Margolis has not been completely honest with recalling the facts, as we had counsel, as you can see, complied with request of Court, and the letters; he's referencing was another part of our conversation during his preliminary interview via phone with Allen & Regina Stamps, we informed Mr. Margolis, that we had to write letters( seven page letter to Honorable Benham ); due to counsel of ours, noncompliance to the reasonable request of bringing forth the documented evidence, in which Mr. Margolis stated was a good thing on our part it may have save our rights. SEE, written letters from CASH FAMILY 'S, "Objection To The Petition Of Administration For Sale Of Realty To Pay Unpaid Claims And Administrative Expenses And Motion For Restraining Order" responding to Ms. Washington's file Motion ( Pattern when theirs no counsel; opposing parties get very active ), and letter from CASH FAMILY to THE COURT IN

**RESPONSE TO MRS. HOBBS filing. SEE, TO THE HONORABLE JUDGE ROBERT BENHAM OF THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE, DIVISION ONE. This is the same exact thing we are doing now writing a letter to the Honorable Judge Vescovo, responding to Mr. Margolis's Motion and Bar Complaint.**

What is clear is there is a pattern here, by Counsels, past and present, on issues with the statement of facts but what counsels do have in common, is the Slandering of their clients; all because we seek justice; to honor our deceased father's, Alfred Cash, Jr., last wishes. Look at the price clients have paid under the name of Justice.

**Now, with the preponderence of clear and convincing, beyond a reasonable doubt , of evidence, laid out before you, Please put an end to this malicious criminal act of FRAUD, FORGERY AND CONSPIRACY TO CONCEAL AND LET JUSTICE FINALLY PREVAIL.**

Kenneth M. Margolis
Attorney At Law
100 North Main Street
Suite 2601
Memphis, Tennessee 38103
Telephone: 901-405-3013
Facsimile: 901-575-8717

April 13, 2006

Mr. Kevin Cash
3263 Landon Lane
Memphis, Tennessee 38119

Mrs. Regina Cash-Stamps
1595 Patrick Mill Place
Buford, GA 30518

Re: Cash vs. NADART, 05-2917-B/An
US District Court WD Tenn

Dear Mr. Cash and Mrs. Cash-Stamps:

Enclosed please find an offer of settlement I received from opposing counsel today. Please take the time to review the offer. As will be explained in more detail below, upon a thorough evaluation of the applicable Federal and State law, I am not confident that we would be

successful in opposing a motion to have our action dismissed. For this reason, at this time I recommend that you accept the settlement offer.

1. A Federal Court is a Court of limited jurisdiction, which means that the only way it has authority to hear a case is if such authority is granted to the court by statute. In the present controversy, NADART obligation to your father, and by which to you, is governed by the Federal Statutes commonly known as ERISA. AS such, the authority of the Court to hear our dispute is based on the relative provision of ERISA.

2. USC 29-18-1132, entitled "Civil Enforcement" spells out who is entitled to enforce the provisions of ERISA and what relief to which they may be entitled. Subsection (a)(1) deals with actions which may be brought by a participant or a beneficiary, sub-part (a)(1)(B) deals with the recovery of "benefits due to him under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan." This is the statute which gives us authority to have our case heard.

3. After an exhaustive review of ERISA, I could not locate any other provisions by which we can legitimately be entitled to relief. The other provisions either apply to remedies by governmental agencies or damages for not producing reports or documents which do not apply to our situation. (29-18-1132( c)(1)(B) containing the $100 a day penalty does not apply as the disputed form was not in the possession of NADART but Schilling). Our cause of action is not based on NADART's refusal to cooperate and release documentation; rather our claim is straightforward – we feel that the proceeds of the plan were improperly distributed.

4. USC 29-18-1132(e) is entitled "Jurisdiction." This section outlines what court may hear the controversy. Subpart (e)(1) states that "State courts of competent jurisdiction and district courts of the United States shall have concurrent jurisdiction of actions under paragraphs (1)(B) and (7) of subsection (a) of this section." Which leads us to determine whether the Probate Court

of Shelby County, Tennessee is a "State Court of Competent Jurisdiction" to resolve our (a)(1)(B) claim (the proper distribution of the proceeds of the 401(k) fund).

5. The Shelby County Probate Court is also a court of limited jurisdiction. Under TCA 1-3-105(23)a "Probate court" means the court having jurisdiction over the administration of the estates of decedents." There was a valid argument that the Shelby County Probate Court did not have the authority to order the distribution of the 401(k) proceeds. I can make that argument to the Federal Court, but since it has been several years since that matter was tried before the Probate Court, we will not likely prevail at this time.

   (a) If we objected to the authority of the Probate Court, we should have objected while the matter was pending before the court several years ago. Since we tacitly conceded the Probate

Court's jurisdiction by arguing this issue before it, we are in effect stopped from denying its authority (if we had prevailed in the Probate Court we would not be disputing that the Probate Court had the proper authority to hear the case-we cannot question the Court's jurisdiction now just because we do not like the outcome.

(b) If we objected to the validity of the Court's order instructing NADART how to distribute the 401(k) proceeds, we need to to have taken timely measures to stop the binding effect of the Court's order. We either needed to appeal the decision or moved for an injunction from the Federal or Superior State Court to stay the order. By not formally filing our concerns in a timely fashion (as required by law) we are barred from making the claims now.

(c) Basically, one of the purposes of court orders is to inform parties exactly what their rights and responsibilities in a particular case are. In the present matter, NADART wanted to know what to do with the proceeds of the 401(k). It relied on the order of the Probate Court in making the distribution. If we objected tot eh Order, we needed to put NADART on notice that the Order was not valid and could not be relied upon-either by objecting to the Probate Court hearing the issue in the first place or by appealing the order or filing for an injunction-otherwise, NADART had no choice but act as if it was a valid, legally binding Order of the Court.

6. *Res Judicata*, basically this means that every party to a lawsuit has one bite at the apple. If they allow an issue to be tried in one Court and lose, they cannot re-file in a new venue seeking to have the same matter tried over again. In

this case, the probate court heard evidence regarding the whether or not there was a properly executed "designation of beneficiary form." Arguments were made that this was not a NADART form and as such could not be relied upon in the assigning of beneficiaries. The Court ruled against us on this issue- we cannot reargue that claim again.

Does *Res Judicata* apply to the issue of fraud? This issue is a little more sticky. The Probate court indicated that the issue was not raised in a timely manner (it should have been raised in 2000) and that by the time Mr. Bolton attempted to put on proof of the forgery (2002) it was too late and the Court would not hear it. We will argue to the Federal court that the Probate Court did not hear any proof on the issue of fraud/forgery so it never made a ruling or judgment on that issue. However, NADART will argue that we were afforded the opportunity to make the argument but waived it due to our failure to make the argument in a timely fashion. On such arguments, I

am not confident that the Federal court will rule in our favor.

7. Regarding the Statute of limitations, generally a statute of limitations sets out the time limit within which a lawsuit can be filed. For instance, we would have one year to file a lawsuit against an attorney for malpractice. A case for economic loss due to fraud or negligent misrepresentation must be brought within three years of the discovery of the bad act. In the present suit, an ERISA action much be brought within the time limits for a Breach of Contract suit in State Court. There is a six year statute for sale of goods. Since our action was filed more than four but less than six years following your father's death it is unclear which time limit will be relied upon by the court. Though I think we can prevail on this issue but there is no guarantee.

---

With the above in mind, we are left with NADART's offer. I have no doubt that your family has been defrauded, disrespected and quite frankly put through the wringer in

everything relating to your father's estate. I believe that you did not have effective assistance of counsel in Seymour Rosenberg, and that you were the victim of fraud on the part of Mr. Hobbes and Washington and Schilling Motors. I believe that your father's signature was fraudulently placed on the beneficiary form and that the proceeds of the 401(k) were improperly distributed.

When I was hired, I was frank in my assessment that this would be an uphill fight and that it would be a significant investment of time and effort on my part to review the record, the law and the fact to determine what remedy it any you all were entitled to. I promised you that I would file an action in Federal Court and make the best case that I knew how so as to obtain a favorable settlement of judgment on your behalf.

Unfortunately, the law is what the law is and the facts are what they are. In all frankness, I blame Seymour Rosenberg for the majority of your problems. He did not manage your case properly and his misfeasance resulted in the original order against you. He did not properly amend his pleadings or follow-up on legitimate claims.

Additionally, after Mr. Rosenberg was discharged, during period of months when you could not obtain a substitute attorney and consequently acted as your own counsel (writing letters to and making appearances before the Court) many of your rights were irreparable damaged and lost. By time Mr. Bolton came on board there was little he could do.

Where we are left now is the offer of NADART. To be absolutely clear, I will fight diligently and zealously for your interests and attempt to get this matter to trial. By the above, I was attempting give you my objective evaluation of our prospects. If you choose to accept NADART's offer, you will be in a better position than you would have been had you not chosen to move forward with this action. Obviously get back the $5000 paid to me as a retainer and are left with a little something extra. More importantly, you will have closure and respect. NADART cannot formally admit that it was wrong (no defendant in any lawsuit ever does). NADART is making a tacit admission that you all were mistreated and the offer is an attempt to balance the scales. Please note, that this type of offer is not an insult; quite to the contrary, NADART legitimately feel that it has a good "legal" defense (on issues of law not on the

morality of everyone's positions). Instead of giving the money to their attorney, they recognize that you have been mistreated and are offering the money to you.

Please note that I consider the acceptance of this offer as a moral victory on your part and encourage its acceptance.

Please talk among yourselves regarding your desires, In order to avoid having to answer the same questions several times, I request that you memorialize any comments or questions to me in a letter so that I can give you a detailed and appropriate response.

I look forward to hearing from you soon.

s/ Kenneth M. Margolis, Esq

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McGuire, Woods, Battle & Boothe, LLP
Washington Square
1050 Connecticut Ave, NW
Washington, DC 20036-5317
202-857-1700 Phone
202-857-1737 Fax

May 11, 2000

VIA Facsimile
Jim Apistoles
Manager, Investment Choice Plans
National Automobile Dealers & Associates
Retirement Trusts
8400 Westpark Dr.
McLean, VA 22102

Re: Estate of Alfred Cash, Jr.
Probate court Case No. C 1427

Dear Jim:

This will confirm that Marie Washington, counsel for the Estate of Alfred Cash, Jr., and Marilyn Sellers-Hobbs, counsel for Justin A. McLaurin, have stipulated that NADART and Wayne Williamson need not appear to the hearing in the above-referenced matter, which is currently set for May 12, 200. In addition, our

local counsel Kevin Cox of Glankler Brown, has confirmed with Judge Benham's clerk that the appearance of NADART and the dealership have turned over the relevant documents to the parties regarding the 401K plan and that DANART is prepared to interplead the funds to the court of hold the funds in a constructive trust until the beneficiary dispute is resolved.

Should you have any questions or comments concerning this matter, please feel free to contact me.

s/ Lawrence P. Sandor

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Marilyn Sellers-Hobbs
Attorney at Law
PO Box 901585
Memphis, TN 38190
Phone: 901-491-2608
Fax: 901-332-9622

May 15, 2000

TO: ALL INTERESTED PARTIES OF ESTATE OF ALFRED CASH, JR. DECEASED

FROM: MARILYN SELLERS-HOBBS
ATTORNEY FOR ESTATE OF JUSTIN ALAN MCLAURIN

RE: NADART 401K PLAN FOR ALFRED CASH, JR.

Dear Sirs and Madam:

On Friday, May 12, 2000, Judge Benham issued an Order directing NADART, by counsel, to maintain funds currently held under Plan #: 400073 for the benefit of Alfred Cash, Jr. deceased, pending the outcome of trial.

Well, it is my information that all parties are now in agreement and will consent to the

funds held by NADART to be issued to the Estate of Justin Alan McLaurin. Accordingly, I am enclosing a consent Order to all parties named below wherein you are waiving you prospective interest in said funds and directing the Court to issue said funs to the Estate of Justin Alan McLaurin.

I am sending this correspondence directly to Regina Cash, Alfred Cash, III, Doug Cash and Kevin Cash as there is no attorney of record representing your respective interest in this case.

s/ Marilyn Sellers-Hobbs

Hand written note by Regina Cash:

Why would you send waiver forms if the money belonged to your client there would clearly be no need if he was the designated beneficiary and as you can see the 4 adult children never spoke with this attorney nor signed any waiver form?

Seymour S. Rosenberg
Attorney at Law
371 Carroll Ave.
Memphis, TN 38105
Telephone: 901-527-4777
Facsimile: 901-527-0421

November 21, 2000

Glanker-Brown
Attn: Mr. Kevin Cox
Attorney at Law
One Commerce Square
Memphis, TN 38103

RE: ESTATE OF ALFRED CASH, JR.
PROBATE COURT NO. C-1427

Dear Mr. Cox:

In reference to my letter dated October 23, 2000 and the three (3) questions that I asked, under the ERISA in the fifth paragraph we are entitled to any reasonable requests concerning the Plan. I have enclosed for you perusal two (2) pages which state that if the items are not provided within thirty (30) days we may file suit in Federal court and the Court may impose

penalties up to $100.00 per day until we receive the material.

Trusting this will not be necessary, I remain.

s/ Seymour S. Rosenberg

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IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

IN RE:

ESTATE OF ALFRED CASH, JR. Deceased

Case no. C-1427/ Division 1

PARTIAL DEPOSITION OF EDDIE MCLAURIN

DATED: December 14, 2001

Morrow, Sanders & Associates
Court Reporters
Suite 420 – 80 Monroe Avenue
Brinkley Plaza
Memphis, TN 38103
901-528-1168

Q. Would it have been Wayne Williamson"
A. that's the name, Williamson.
Q What did he tell you?
A. I just don't remember all of that.
Q. Did he tell you that there was a pool of funds for Justin or not?
A. No, not for Justin. He told me that Al—Al had a 401K, but he didn't tell me who the beneficiary was or anything like that.
Q. Did you inquire specifically about Justin.
A. Yeah.
Q. did he respond by saying, yes, no, or I 'm not going to tell you?
A. If I recall correctly he told me he couldn't give out that information because he was unsure of the beneficiary or something like that if I recall correctly.
Q. Now when was that that you went out there? How many weeks after the death of Mr. McLaurin (sic) or month approximately?
A. You mean after Mr. Cash?
Q. I mean Mr. Cash, please excuse me, Mr. Al Cash's death?
I'd ask you to take a look at that and I'll ask you a few questions about it in a few minutes. Is there anything incorrect on that form?
A.Is that supposed to be Justin's address up there, 4582 Tulane or is that Al's address?
A. Well, I would have to assume it's correct then.

Q. Did Justin ever live at 4582 Tulane?
A. Ever live there, no, visited, I guess, because I don't know Al's address, his address.
Q. But you would know where Justin lives?
A. Yeah, I know where he lives.
Q. Where does he live?
A. 4140 Double Tree Road.
Q. So that's incorrect, then, is that right, if that's to represent Justin's address?
A. That's incorrect then.
Q. Do you have any idea who might have put that address on the form?
A. None whatsoever.
Q. When did you first see this form?
A. If I'm not mistaken, just now.

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IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

IN RE: ESTATE OF ALFRED CASH Jr.,
Deceased

SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' AMENDED MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING

INRODUCTION

This is an action seeking to set aside the judgment rendered against the Petitioners by this Court on October 16, 2000, and requesting a rehearing pursuant to Rule 60.02 of the Tennessee rules of Civil Procedure.

STATEMENT OF FACTS

Petitioners, Alfred Cash, III, Doug Cash, Kevin Durell Cash and Regina T. Cash-Stamps, are the four adult children of Alfred Cash, Jr. "Decedent." The Decedent died in Memphis, Shelby County, Tennessee, on January 14, 2000 at the age of 58 years. Among the Decedent's assets was the National Automobile Dealers and associates Retirement Trust "NADART." The

NADART is a 401(k) fund valued at approximately thirty-one thousand, two hundred eighty seven dollars and two cents ($31,287.02). (See Exhibit 1).

NADART Plan Administrators made a clear intention to distribute the 401(k) funds to the children of the Decedent. (See Exhibit 2). The Executor for the Estate of Alfred Cash, Jr. and the Executor of the Estate of Justin Alan McLaurin, a Minor, "Respondents," sought and obtained a restraining order preventing the distribution of funds to the Petitioners. Following a hearing held July 27, 2000, judgment was rendered awarding the 301(k) plan funds to Jutin Alan McLaurin as sole beneficiary based upon an irrelevant and suspicious beneficiary form purporting to be a NADART Beneficiary Designation Form signed by the Decedent. Petitioners seek to have the judgment set aside for the reasons stated below.

LEGAL ARGUMENT

I. THE NADART MASTER PLAN DOCUMENT CONTROLS THE DESIGNATIONOF BENEFICIARIES.

Petitioners seek to have this Court's judgment set aside because the distribution of the Decedent's 401(k) funds are governed by the provisions found in the NADART Mast Salary Deferral 401(k) Plan "NADART Plan Document". (See Exhibit 3). According to the NADART Plan Document, the children of the Decedent and not Justin Alan McLaurin, were entitled to the Decedent's 401(k) funds.

A. ERISA States The The Plan Administrator Should Follow The Documents And Instruments Governing the Plan.

The NADART plan in which the Decedent was a participant is a retirement plan governed by the Employee Retirement Income Security Act "ERISA." (See 29 U.S.C. section 1144(a). In determining the beneficiaries to receive the Decedent's 401(k) funds, ERISA required the plan administrator to "...discharge his duties in accordance with the documents and instruments governing the plan..." (See 29 U.S.C. section 04(a)(1)(D). The document governing the plan is the NADART Master Salary

Deferral 401(k) Plan NADART Plan Document". See Exhibit 3). In McMillan v. Parrott 913 F.2d 310, the Sixth Circuit opined that federal law superseded all state laws relating to an ERISA plan pursuant to section 1144(a) of the Employee Retirement Income Security Act. (See 29 U.S.C.S. section 1144 (a). ERISA also provides that a plan fiduciary "shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries..." (See 29 U.S.C.S. section 1140(a)(1).

Pursuant to ERISA, the NADART Plan Administrators were required to distribute Decedent's 401(k) funds in accordance with the NADART Plan Document. The NADART Plan Administrators determined that the Decedent's funds should be distributed to his children. (See Exhibit 2).

B. The NADART Master Plan Document Is a Valid and Enforceable Contract.

Because the NADART Plan Document is a valid and enforceable contract, its provisions should govern the distribution of Decedent's 401(k)

funds. The Plan Document stated that the Decedent may designate a beneficiary for his 401(k) funds by signing a form furnished by the Plan Administrator. Specifically, Article IX Section 9.12 on Page 29 of the NADART Plan Document states that:

"Each participant by signing a form furnished by the Plan Administrator may designate a Beneficiary or Beneficiaries..." (See Exhibit 4).

However, the Decedent did not have a signed NADART beneficiary form. According to the deposition of Wayne Williamson, the Vice President and General Manager of Schilling Lincoln Mercury, there was not a properly completed NADART beneficiary form in the Decedent's Schilling Lincoln Mercury employee file. (See Deposition of Wayne Williamson, Page 25, lines 16-21), In fact, the Decedent was not furnished with a NADART beneficiary for to complete. (See Deposition of Lisa Paton, Page 18, lines 2-4). According to the deposition of Lisa Paton, former office Manager of Schilling Lincoln Mercury, it was not until after the death of the Decedent that any of the Schilling Lincoln Mercury employees participating in the NADART

401(k) plan were furnished with a NADART beneficiary form to complete. (See Deposition of Lisa Paton, Page 18, lines 11-13).

Article XI Section 11.1(b) on Page 34 of the NADART Plan Document provides that the Plan Administrator shall have the power to:

"(b) interpret the Trust and Plan and decide any and all questions of fact, interpretation, definition or administration arising there under." (See Exhibit 5).

As documented in a letter dated March 14, 2000, the NADART Plan Administrators made a clear determination "we do not have a properly completed NADART beneficiary from for Alfred Casa Jr." and the Decedent's 401(k) funds were to be distributed to the Decedent's children. (See Exhibit 6).

The provisions of the NADART Plan Document are clear and unambiguous regarding the procedures for distributing 401(k) funds upon the death of a participant. "Courts cannot make contracts for parties. They can only enforce the contract which the parties themselves have made." McKee v. Continental Ins. Co. 191 Tenn. 413, 416 (1951). As a valid and enforceable

contract, the NADART Plan Document should govern the distribution of the Decedent's 401(k) funds.

C. The NADART Master Plan Document Explicitly Provides That Absent A Beneficiary Designation The Children Of The Decedent Should Obtain the 401(d) Funds.

The Decedent died without ever completing a NADART beneficiary form. Absent a properly completed NADART beneficiary form Article IX, Section 9.12 on Page 29 of the NADART Master Plan document states as follows:

If any Participant shall fail to designate a Beneficiary for the purposes of this section, or if any designated Beneficiary(ies) voluntarily disclaim their right to the benefits under this Plan, the Plan Administrator shall designate Beneficiaries on his behalf, but only from persons with the following relationship to the participant, and only in the order named; (1) spouse, (2) children, 93) other descendants, (4) parents, (5) other ancestors, (6) brothers and sisters, (7) nephews and nieces, and (8) estate." (See Exhibit 7).

In a letter dated March 14, 2000 from James S. Apistolas of NADART, NADART explicitly stated its intentions, "we do not have a properly completed NADART beneficiary form..."we will distribute the proceeds of Mr. Cash's account to his children." (See Exhibit 8). This letter was submitted to the attorney for the Estate, and for Justin Alan McLaurin, Marilyn Sellers-Hobbs with a copy submitted to Wayne Williamson, admitted to in the deposition of Wayne Williamson. (See Deposition of Wayne Williamson, Page 24, lines 18-25).

According to the deposition of Wayne Williamson, Vice President and General Manager of Schilling Lincoln Mercury, the beneficiary form sent to NADART was a First Tennessee beneficiary form. (See Deposition of Wayne Williamson, Page 23, lines 10-21). In comparing the NADART Beneficiary form to the First Tennessee Bank profit sharing plan beneficiary form, there are obvious distinctions between the two beneficiary forms. (See Exhibit 9). Petitioner's request this Court set aside the judgment awarding the Decedent's NADART 401(k0 funds to Justin Alan McLaurin because this honorable Court was presented with the irrelevant and suspicious

First Tennessee Bank profit sharing beneficiary form, which was not the controlling document.

## II. THE BENEFICIARY FORM PRESENTED TO THE COURT WAS NOT SIGNED THE DECEDENT.

Even if this Court should find the First Tennessee beneficiary form as the controlling document, it was not validly executed because the beneficiary form was not signed by the Decedent. The expert finding of Thomas W. Vastrick "Vastrick", Forensic Document Examiner certified by the American Academy of Forensic Document Examiners reveal that the signature of the Decedent waslikely transferred from another document to the First Tennessee beneficiary form. Vastrick based his expert opinion upon handwriting specimens of the Decedent for over a ten year period. (See Exhibit 10).

In the documents Mr. Vastrick reviewed as a paper from Mr. Cash's personal file signed and dated the same day as the document in question. The signatures are totally different. (See Exhibit 11). It appears that fraud has occurred.

Additionally, Lisa Paton, form Officer Manager of Schilling Lincoln Mercury, counted at least four different handwritings on the beneficiary form purporting to be the NADART beneficiary form. (See Deposition of Lisa Paton, Page 23, lines 14-16). Because the beneficiary form presented to the Court was not validly executed and suspicious, it should not be the controlling beneficiary document.

## III. JUSTIN ALAN MCLAURIN'S PATERNITY IS AT ISSUE

Finally and reluctantly, the paternity of Justin Alan McLaurin is at issue. No father is named on the birth certificate. (See Exhibit 12). An affidavit appears in the minor's guardianship file signed by Al Cash, Jr., but it has not docket number on it. (See Exhibit 13). The legitimate children of the deceased were not aware of the minor's existence until the issue of the will arose.

## CONCLUSION

For the foregoing reason, we ask the honorable court to set aside the judgment awarding Justin Alan McLaurin as sole beneficiary of the NADART 401(k) funds and request a new hearing be granted on the matter.

s/ Julian T. Bolton
Attorney for Plaintiffs

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Shelby County Courthouse
Probate Court of Shelby County
Division One
120 Shelby County Courthouse
Memphis, TN 38103
Robert Benham, Judge

July 18, 2002

| | |
|---|---|
| Julian T. Bolton, Esq | Kevin C. Cox, Esq. |
| Alfred Cash, III | Marilyn Sellers-Hobbs, Esq. |
| Douglas Cash | Regian Cash-Stamps |
| Kevin Cash | Marie A. Washington, Esq. |

Re: Estate of Alfred Cash Jr., Deceased
Shelby County Probate Court Docket
No. C-1427

Ladies and Gentlemen:

Enclosed is an attested copy of the COURT'S ORDER ON PENDING MATTERS, which I have signed as a result of the hearing on Wednesday, July 10, 2002 in the above referenced matter.

Also, after a phone call Wednesday afternoon to attorney Marilyn Sellers-Hobbs, the court found that the order regarding NADART's release of funds, that was argued in Wednesday's court hearing to have been signed by me and "misplaced" somehow by Probate Court, was in actuality still be circulated among NADART, their attorney Kevin C. Cox and attorney Marilyn Sellers-Hobbs.

Consequently, I signed the ORDER AUTHORIZING NADART TO RELEASE FUNDS, which the two attorney brought to me on July 11, 2002, and an attested copy of same is also enclosed herein.

s/ Judge Robert S. Benham

IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

IN RE:
ESTATE OF ALFRED CASH, JR.
Deceased. No. C-1427

ORDER AUTHORIZING NADART TO RELEASE FUNDS

THIS MATTER CAME TO BE HEARD ON June 18, 2002, on Motion for Order Authorizing NADART to Release Funds before the Honorable Robert Benham, Probate Judge, Division I of the Probate Court of Shelby County, Tennessee.

IT APPEARS TO THE COURT that all disputed issues regarding the designation of beneficiary for executed by Alfred Cash, Jr. have been fully litigated and the time for appeal has expired.

IT FURTHER APPEARS that NADART is authorized and directed to release the funds invested by Alfred Cash, Jr., deceased, in Schilling Lincoln Motors Profit Sharing Plan Deferred 401K Profit Sharing/Pension Plan and deliver said funds payable to the Guardianship

Estate of Justin Alan McLaurin, a minor, to the care of Marilyn Sellers-Hobbs, Attorney.

THEREFORE IT IS ORDERED, ADJUDED AND DECREED that NADART is authorized to and directed to release the funds invested in Alfred Cash, Jr.'s Salary Deferral 401K Profit Sharing/Pension Plan payable to the Guardianship Estate of Justin Alan McLaurin, a minor, and to deliver said funds to the care of Marilyn Sellers-Hobbs, Attorney, PO Box Box 901585, Memphis, TN 38910, upon the Guardianship Estate increasing bond to $45,000.00.

s/ Robert Benham
Judge

s/ Marilyn Sellers-Hobbs
Attorney for Justin A. McLaurin

s/ Kevin c. Cox
Attorney for NADART

IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

IN RE:
ESTATE OF ALFRED CASH, JR.
Deceased. No. C-1427

COURT'S ORDER ON PENDING MATTERS

On July 10, 2002, there was presented for consideration a Motion filed by Julian T. Bolton, Esq. to withdraw as counsel of record in this cause.

IT APPEARING to the Court that a Motion was filed in this Court and in this cause styled MOTION TO WITHDRAW AS ATTORNEY OF RECORD on May 16, 2002; and

IT FURTHER APPEARING to the Court that the original is not in the Court's file, and

IT FURTHER APPEARING to the Court that the Shelby County Probate Court computer system indicates that such a Motion has been filed; and

IT FURTHER APPEARING to the court that there is pending a continuation of an

ORDER TO SHOW CAUSE, which is set for August 8, 2002; and

IT FURTHER APPEARING to the Court from the testimony of Julian T. Bolton, Esq., Kevin Cash, Allen and Regina Stamps that substantial conflicts appear as a result of the representation by these persons known as the "Cash heirs" and their counsel; and

IT FURTHE APPEARING to the court from statement of all parties that this Court signed an Order as the result of a document styled MOTION FOR ORDER AUTHORIZING NADART TO RELEASE FUNDS dated May 30, 2002; and

IT FURTHER APPEARING to the Court that there is no record of same in this Court's Minute Book or computer system, nor is there such an Order in the file;[1] and

---

[1] Subsequent to the dictation of this document on July 10, 2002, and prior to its signature on July 18, 2002, the Court determined that, in fact, no Order had been signed by this Court; and that on July 11, 2002, the court did, in fact, sign two Orders—the first being an ORDER VACATING PREVIOUS ORDER AND INCREASING BOND in cause No. B-17135, and the second Order being an ORDER AUTHORIZING NADART TO RELEASE FUNDS in Cause No. 1427- true attested copies both of which are attached to this Order.

IT FURTHER APPEARING to the Court that in order to proceed further on all these matters, it is necessary that there be a continuance of this hearing in order to rule finally on the Motion of Julian T. Bolton, Esq.; on the ORDER OF SHOW CAUSE; and on the whereabouts of the various Orders listed herein that are missing; and

IT FURTHER APPEARING to the Court that in order to do complete justice to this matter, it will be necessary to reset a Court hearing for all of these above-mentioned matters.

IT IS, THEREFORE, ORDERED ADJUDGED AND DECREED that all pending matters in this cause are hereby to Tuesday, September 17, 2002, commencing at 10:00am and continuing until resolved.

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED, THAT THE Clerk of this Court shall transmit to all beneficiaries, and/or heirs of the Decedent, a copy of all accountings filed herein and shall, further, set a date for the submission of any objections by any such party.

ALL OF WHICH IS, ACCORDINGLY, ORDERED, ADJEDGED AND DECREED, this 18th day of July, 2002.

s/ Judge Robert S. Benham

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IN THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE

IN RE:
ESTATE OF JUSTIN ALAN MCLAURIN
A. Minor. No. B-17135

ORDER VACATING PREVIOUS ORDER AND INCREASING AMOUNT OF BOND

IN THIS CAUSE, it appearing that on June 18, 2002, the Estate of Justin Alan McLaurin, a minor, was designated to receive funds of approximately $33,000.00 therein increasing the value of the estate ot $43,000.00.

IT ALSO APPEARING from a review of the records that the original bond was set in the amount of $18,000.00 should be increased to $45,000.00 to adequately protect the estate.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the bond is increased to $45,000.00.

s/ Robert Benham
Judge

s/ Marilyn Sellers-Hobbs
Attorney for Estate

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
TENNESSEE
WESTERN DIVISION**

KEVIN CASH, REGINA CASH,
ALFRED CASH, III and DOUG CASH

**Plaintiffs,**

vs.
Case No. 2:05-2917-B

**Plaintiffs proposed PRETRIAL ORDER**

NADA RETIREMENT ADMINISTRATORS,
INC. D/B/A NADART

**Defendant.**

## I. JURISDICTION

This Honorable Court has jurisdiction of the subject matter of the action as

the suit arises under the Employee Retirement Income Security Act ("ERISA" ), generally 29 U.S.C. Section 1001 et seq. specially 29 U.SC. Section 1132(e)(1) (2), 1144 et seq. and 1201 et seq.

## II. CLAIMS AND DEFENSES

### A. Plaintiffs Statement

This is an action of Fraud,Conspiracy To Commit Offense, Forgery, False Statements and Concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974 ( beneficiary form), Cover Up, Wire Fraud, Failure to provide beneficiaries with requested information to the plan, Failure to properly disburse funds according to governing document which is improper distribution, Breach of Fiduciary Duty.

These are very serious Federal Criminal and Federal Civil violations of the Employee Retirement Income Security Act ( "ERISA" ). The Defendant NADART attempted, conspired and committed an offense ( federal violation of Title 18-Crimes and Criminal Procedure, Part I-Crimes, Chapter 19-Conspiracy, Section-371-Conspiracy to commit offense ( 18U.S.C. Section 371) aganist the Plaintiffs. Defendant's Attorney Kevin Cox, of Glankler Brown, who represented both Schilling Lincoln Mecury Dealership and NADART at the time, deliberately and knowingly presented this fraudulent beneficiary form, this forged document speaks for itself, a federal violation of Title 18-Crimes And Criminial Procedure,

Part I-Crimes, Chapter 25-Counterfeiting And Forgery, Section 495-Contracts, deeds, and powers of attorney ( 18 U.S.C. Section 495 ), and federal violation of Title 18-Crimes And riminal Procedure, Part 1-Crimes, Chapter 25-Counterfeiting And Forgery, Section 471 - Obligations or securities of United States ( 18 U.S.C. Section 471 ).

Whoever, with intent to defraud, falsely makes, forges, counterfeits, or alters any obligation or other security of the United States, shall be fined under this title or imprisoned not more than 20 years, or both and a federal violation of Title 29-Labor, Chapter 18-Employee Retirement Income Security Program, subchapter I-Protection Of Employee Benefit Rights, Subtitle B-Regulatory Provisions, Part 4-

Fiduciary Responsibility, Section 1105-Liability for breach of co-fiduciary (a)"circumstances giving rise to liability ( 29 U.S.C. Section 1105 (a)(1)(2)(3) ) In addition to any liability which he may have under any other provisions of this part, a fiduciary with respect to a plan shall be liable for breach of fiduciary responsibility of another fiduciary with respect to the same plan in the following circumstances :

(1) if he participates knowingly in, or knowingly undertake to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;

(2) if, by his failure to comply with section 1104 (a) (1) of this section

this title in the administration of his specific responsibilities which rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach; or

(3) if he has knowledge of a breach by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

**1) BREACH OF FIDUCIARY DUTY**

ERISA required the plan administrator to..."discharge his duties in accordance with the documents and instruments governing the plan... ( federal violation of 29 U.S.C. Section 1104 (a)(1)(D), federal violation of 29 U.S.C. Section 1105 (a)(1)(2)(3), federal violation of 29 U.S.C. Section 1109 (a), federal

violation of 29 U.S.C. Section 1132 (a)(1)(A)(B)(2)(3), (c)(1)(A)(B), (d)(1)(2), (f), (g)(1), (l)(1)(A)(B). As such the rights and responsibilities of a plan administrator, participant and beneficiary are contractual in nature and based on the terms of the document governing each particular plan.

**2) IMPROPER DISTRIBUTION**

The document governing Alfred Cash, Jr.'s plan and proper distribution of its contents was NADART Master Salary Deferral 401(k) Plan (approved by IRS on December 12, 1997) which provides in Section 9.12 **Designation of Beneficiaries**, as follows:

Each Participant, by signing a form furnished by the Plan Administrator,

may designate a Beneficiary or Beneficiaries and successor Beneficiaries in accordance with section 401 (a)(9). If any Participant shall fail to designate a Beneficiary for the purposes of this section or if any designated Beneficiary (ies) voluntarily disclaim their rights to the benefits under the Plan, the Plan Administrator shall designate Beneficiaries on his behalf, but only from among persons with the following relationship to the Participant, and only in the order named: (1) spouse, (2) children, (3) other descendant. At the time of Alfred Cash, Jr.'s death, there was not a properly executed NADART beneficiary form. In correspondence dated March 14, 2000, NADART memorialized its findings that Alfred Cash, Jr. died without a properly completed NADART beneficiary form and that the Defendant intended to distribute the contents of the account to the referenced five

children and subsequently, NADART improperly distributed the funds of Alfred Cash, Jr. , to only Justin McLaurin. Defendant NADART was an active "participant in fraud and conspiracy" and knowingly and willfully, joined in a plan to accomplish this illegal result" which is a federal crime or offense", and defendant NADART conspired to keep "concealing the facts in relation to the fraudulent document ( beneficiary form ) that was needed and "necessary to verify, explain, clarify, Plaintiffs appropriate share, this is a federal violation of the United States Code (U.S.C. ) of Title 18-Crimes And Criminal Procedure, Part I-Crimes, Chapter 47-Fraud And False Statements, Section-1027-False statement and concealment of

facts in relation to documents required by the Employee Retirement Income Security Act of 1974. (18 U.S.C., Section 1027) and federal violation of the United States Code ( U.SC.) of Title 18-Crimes And Criminial Procedure, Part I-Crimes, Chapter 63-Mail Fraud, Section 1349-Attempt and conspiracy, ( 18 U.S.C. Section 1349 ). This is a felony. Defendant NADART faxed this fraudulent beneficiary form to the court on May 02,2000, this a federal violation of 29 U.S.C. Section 1343 Fraud by wire.

**3) Failure to disclose requested information made by beneficiaries under the Plan**

Defendant totally ignored Plaintiffs request for information in October 2000, under the Plan. Defendant Nadart never responded to our

request for materials from the Plan, a federal violation of Title 29-Labor,Chapter 18-Employee Retirement Income Security Program, subchapter 1-Protection Of Employee Benefit Rights, Subtitle B-Regulatory Provisions, Part I-Reporting And Disclosure, Section-1025-Reporting Of Participant's Benefit Rights (a)(1), (29 U.S.C. Section1025 (a)(1) ), a federal violation of 29 U.S.C. Section 1132(a)(1)(A)(B)(2)(3)(i)(ii), (c)(1)(A)(B), (d)(1)(2), (f), (g)(1), (l)(1)(A)(B).

**4) Failure to respond to Perfected Claim Of Plaintiffs**

Defendant NADART faxed Benefit IC-10 Forms to our attorney at the time Mr. Julian T. Bolton, who advised Plaintiffs to perfect their claim in which Plaintiffs did by going to Schilling Lincoln Mercury Dealership, The Vice

President/ General Manager Wayne Williamson, signed each Benefit Release IC-10 Forms. Plaintiffs Federal Expressed their IC-10 Benefit Release Form to NADART and Defendant never responded instead defendant is still concealing the Fraud. Defendant is in violation of 29 U.S.C. Section 1133 (1)(2). Section 1133 is claims procedure states in accordance with regulations of the Secretary, every employee benefit plan shall -

(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood

by the participant, and

(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the ppropriate named fiduciary of the decision denying the claim.

**5) Coercive interference**

Defendant intentionally concealed fraudulent information from the plaintiffs, knowing that this information was material and withholding said information would seriously damage plaintiffs a federal violation of 29 U.S.C. Section 1141. Plaintiffs have been damaged by defendants' fraudulent misrepresentation and concealment in an amount to be determined, but in excess of $ 70,000.00. Defendants' willful and fraudulent misrepresentation and concealment showed

malice, fraud, conspiracy, wantonness, willful misconduct, reckless, calculated disregard for the law, oppression with specfic intent to cause harm to plaintiffs. Glanker Brown Law Firm should have sanctions aganist them for allowing their clients, NADARTand Schilling, to conspire and conceal the fraud, attorney Kevin Cox of Glanker Brown Law Firm should be disbarred, attorney Marilynn Ross at NADART, and James Minnis, Director Of Legal Affairs at NADART should have sanctions imposed on them for taking part in this active conspiracy to conceal the Fraud, knowingly disregarding the law, complete wantoness. Plaintiffs asserts and shows that defendant inflicted upon plaintiffs tortious

misconduct in that defendant fraudulently misrepresented the beneficiary form with intent to deceive plaintiffs, and did in fact deceive plaintiffs and thereby induced plaintiffs to act to their injury. Plaintiffs therefore prays for special, exemplary and punitive damages in an amount to be determined , but no less, than One Hundred Million dollars to deter defendants from such wrongful and malicious fraudulent conduct in the future. Plaintiff should be awarded the expenses of litigation in this matter, including his attorney fees, because defendant acted in bad faith during the course of this matter and any other relief this Court deems just and proper.

## III. ADMITTED FACTS

1. Alfred Cash, Jr. died in Memphis, Shelby County, Tennessee on January 14, 2000, at the age of 58.

2. The Plaintiffs Kevin Cash, Regina Cash, Alfred Cash, III and Doug Cash, are the four adult children of Alfred Cash, Jr. Kevin Cash is an adult resident of Shelby County, Tennessee, and a son of the deceased. Regina Cash is an adult resident of Buford, Georgia, and the daugther of the deceased. Alfred Cash, III, is an adult resident of Lithonia, Georgia, and a son of the deceased. Doug Cash is an adult resident of Norcross, Georgia, and a son of the deceased.

3. Upon information and belief, Defendant NADART is a Virginia Corporation with its principal place of business at 8400 Westpark Drive, McLean, Virginia.

NADART has significant contacts with Shelby County, Tennessee and actively does business in that community.

4. Alfred Cash, Jr., at the time of his death, held a 401 (K)/Profit Sharing Retirement account with the Defendant NADART under account number 412-68-1654 said account had been in existence since1998 and was valued at approximately $31,287.02.

## IV. EXHIBITS

**TABS**

1. Twenty six (26) pages of Facts For The Supporting Documented Evidence and Consumer Assistance Program Board of Professional Responsibility dated April 21, 2006, requesting response from Mr. Margolis within 10 days Stamps Complaint (* **Please note clarification needed**; on the Complaint where Defendants response was on February 05, 2006, should read January 30, 2006, as this was the time granted

by the Court; Defendants asked for an extension of time 8 days before their answer was due on December 29, 2006, **( see Mr. Margolis letter dated February 02, 2006 with Defendants answer attached, see after, the Civil Complaint filed against Nadat dated December 09, 2005, immediately following Mr. Margolis January 19, 2006, letter )**, and the additional time was granted giving them to January 30, 2006 to respond, **( Please note this is when Regina Cash Stamps received her copy February 05, 2006, of Defendants Answer from sibling Kevin Cash )**

1. Mr. Margolis filed Complaint against NADART in Federal Court dated December 09, 2005, ( see City and State of Clients residence Lithonia, Georgia and Norcross, Georgia, now ~.e top of last page (verifies part of conversation with Mr. Margolis as stated ; we're glad this was mistakenly left in the complaint as he stated the counts, otherwise, he may have slipped out of this one, as he's trying to do, Mr. Margòlis forgot to remove his statment competely and it's what he told us verbally about our constitutional right being violated and the Honorable Benham was improper with what he did as he knows better and the misconduct ( was illegal and

unconstitutional and he was going to report them ( counsels ) to the bar and he would go after them ( counsels ) for malpractice; now Mr. Margolis claims he has no such Knowledge of the misconduct ( he said illegal ) and malpractice, also make note of the faxed letter dated January 18, 2006, **( from Mr. Stamps see after January 06, 2006 letter from Mr. Margolis )** asking Mr. Margolis for **Summons served December 09, 2005, to Mr. Kevin Cox as Mr. Stamps spoke with Mr. Margolis regarding this matter on Tuesday, December 13, 2005, a copy of Defendants request for an extension and to generate a letter to us stating the Five Thousand Dollar ( $5000.00 ) retainer fee has been paid in full and the retainer agreement satisfied, now reference back to his contract agreement as he point out the obligations to us individually and collectively, (*** Please note that these conditions and caveats have been taken directly from the Tennessee Rules of Professional Conduct for Attorneys*** on page 3 of 4 of his response ), #2 keeping you adequately appraised on case developments, #3 (a ) reasonably informed about the status of a matter and comply**

**with reasonable requests for information within reasonable time, from December 13, 2005, we still gave him more time before this letter was generated on January 18, 2006, ( one month and five days ), now Mr. Margolis states in his Motion To Withdraw the noncompliance of his client ( very cunning, dishonest, twisting the truth to his advantage )**

2. Mr. Margolis letter dated January 06, 2006, informing us (clients), Now, after he knew obviously we (clients) would discover from reading, the requested information,( **Summons in Civil Action against Nadart** ) made back on December 13,2005, defendants attorney Mr. Jarratt ( pointing out Mr. Margolis's error on the service of summons, served upon Mr. Kevin Cox, of Glankler Brown ),**Defendant's Answere is due Thursday, December 29, 2005, although the summons stated it was due 30 days after service. ( SEE Summons attached after January 19, 2006, letter from Mr. Margolis )**. Instead of Mr. Margolis sending the summons he sent this dated January 06, 2006, stating he just wanted to keep both of you up to date on the progress of the suit. **"Since this**

matter is in Federal Court, the Defendant has only 20, not 30 days with which to respond to our Complaint." , as if Mr. Margolis, made the self correction himself, just look at the wording it speaks for itself ( misconceive ), instead of admitting he made a mistake, no, Mr. Margolis does not stop there he goes on to say "However, as is customary in this district, the Defendant asked for an additional 30 days which the Court agreed to ( not that he, Mr. Margolis, did, and the Court accepted it but it's as if he had nothing to do with this at all (reference note as you will see this conduct again later on with the scheduling order letter dated April 10, 2006), just look at the way he worded it, Mr. Margolis has shifted the blame on the Court; when he realized we still wanted the requested information now, along with defendants request for a 30 day extension. ( turpitude, deceptive, mischievous, misleading ), and Mr. Margolis continues "As such, an Answer to our Complaint is due at the end of January. Additionally, for your reference I did not receive a payment from Douglas ( his name is Doug as you told Mr. Margolis ) Cash for December, at time I have only received

Alfred's payment for January ). Mr. Margolis has just validated what we've stated in reference to him not having, Alfred's or Doug Cash's addresses, by Mr. Margolis's own admission referencing payment ( Please see contract and view Mr. Margolis's client obiligations as he lays out for us his duties and then refer to agreement made with Clients, "I will file this Civil Lawsuit aganist NADART/SCHILLING in October no later than November and clearly clients followed the agreed upon verbal condition and it states here the only payment received is Alfred's ( pointing out, Alfred's address as you wouldn't send your money order out without a return address; because if something happened; you would want it to come back to you, as well, so,that if it didn't you could put a tracer on it, as it verifies your purchase of the money order ). When I, ( Regina ), spoke with Mr. Margolis in reference to the complaint filed in December, so, I informed my siblings not to send anymore payments until suit was filed Federally and that's when Mr. Margolis, stated his wife had been in an accident. I told him I, ( Regina ), was sincerely sorry and I hoped she (

Mr. Margolis's wife ) was alright ,as I, ( Regina ), went out to get his wife; a wish you well and a speedy recovery card, when the conversation ended between Mr. Margolis and myself.

4. Faxed letter from Mr. Allen Stamps dated January 18,2006, please refer to number two (2)

3. Now, take a look at the letter dated January 19, 2006, of Mr. Margolis ( stating clients have honored their portion of attorney/client agreement, after the January 18, 2006, faxed letter; once again in compliance ), and attached behind cover letter is the Defedants response requesting more time; Notice how Mr. Jarratt of Glankler Brown the same firm that Mr. Kevin Cox , the 1st counsel for Nadart and Schilling ( see letter dated May 11, 2000, from McGuire Woods Battle & Booth, out of Washington, DC., to Mr. Jim Apistolas, Manager, Investment Choice Plans National Automobile Dealers & Associates Retirement Trusts, out of McLean, VA., Mr. Wayne Williamson, Vice Pesident/General Manager for Schillin Lincoln Mercury, deposition as Mr. Cox, is counsel ) pointed out Mr.

Margolis Summons "Defendant's Answer is due Thursday, December 29, 2005, although the summons stated it was due 30 days
after service ( refer back to contract where he obtained rules for attorneys "#1 I shall provide competent representation to a each of you, (should be each of you ). Competent representation requires the legal knowledge, skill, thoroughness, and prepartion reasonably necessary for the representation". Defendants filed for an extension on December 21, 2005, and the answer was due December 09, 2005, eight (8) days later the additional time was granted. Now, see last page the SUMMONS IN A CIVIL ACTION notice served upon Mr. Kevin Cox, Esq. of Glankler Brown PLLC, the same attorney as stated before represented both Nadart/NADA & Wayne Williamson ( Vice President and General Manager of Schilling Lincoln Mercury ), also see Mr. Williamson sworn deposition ( February 16, 2001, he presented Beneficiary form without Mr. Alfred Cash Jr., social security number on it and** please make note of his positions with Schilling Lincoln Mercury, as Mr. Cox was counsel of record,

**when this document was presented and then refer to Mrs. Hobbs Order where counsel Kevin Cox submitted document, also see cover letter faxed to the Probate Court on 5/02/00 from Jim Apistolas on National Automobile Dealers & Associates Retirement Trusts letterhead to Clerk of Probate Mr. Chris Thomas).**

6. Letter from Mr. Margolis dated Februay 02, 2006, **Defedants Answer which I ( Regina Cash Stamps received from my brother Kevin Cash although Mr. Margolis had my name on it ) Deceiving the same thing Ms. Washington did see Complaint filed on July 26, 2001. ( a pattern in the works of counsels )**

7. Faxed Letter cover ( contained 21 pages ) dated February 10, 2006, to Mr. Margolis faxing him four (4) complete Orders in response to Defendants Answers that I ( Regina ) received from my brother; and it was much later when I received my copy from Mr. Margolis

2. Letter dated March 13, 2006, from Mr. Margolis referencing the meeting between Kevin Cash and Allen Stamps ( no mention of loudness, rudeness etc., this would have been the perfect time

to say the accusations he's made against us clients and them ( meeting with Kevin and Allen ). **Now as stated earlier the change in Mr. Margolis variations in his course of actions as he agreed he was going to do, here he says" I again explain", "I was hoping NADART would file a dispositive motion in an attempt to have this suit dismissed. I do not think that there is a serious dispute as to our factual allegations-that the beneficiary form is not the proper form and that it is the product of fraud ; however NADART"s best defenses is procedural in nature. In the interests of trying to get this matter resolved as quickly and efficiently as possible, I was waiting until March, 8th, to see if NADART would file some type of motion to dismiss based solely on the pleadings. "If NADART did file such a motion "I was plannining on drafting ( he told clients file) a responsive brief ( Mr. Margolis stated just brief to clients, statement to the Board wasclients became confused with his explanation of his "game plan" as you can clearly see by his letter he falsified, his answer**

to you ( Bar ), to counteract their specific arguments, ( this is the brief Mr. Margolis was supposed to be filing along with all the supporting evidence as he stated to clients he was going to do and after filing the brief with all the evidence a serious offer would be made by Nadart as they ( Nadart ) did not want this going to court as he had spoken with the attorney ( Mr. Jarratt ) for defendants ( Nadart ) and their scared, as you can see by Mr. Margolis own admission he was to draft ( file ) a brief that he now denies in his responses; Mr. Margolis denies he hadn't promised ( He's right; he never mentioned the word promised, you change or add a word, you change the context which it can become a loophole to swindle out of ), to file anything, ( but as you can clearly see, that's just prevaricating, dishonest, unhanded, misleading, deceptive, ( Board of Professional Responsibility dated April 27, 2006, page 2 last paragraph starting from "Apparently, clients became confused" and his Motion To Withdraw dated May 10, 2006, ( page 2 handling of present litigation ), we

see no mention of the accusations of loudness on the phone from Kevin on February 23, 2006, when Mr. Margolis was returning the call from Kevin ( during the time Mr. Margolis was not responding to us refer back to generated letters ) while he was at work and the reception was extremely bad ( cell phone ) so Kevin tried moving to a different area and called Mr. Margolis back and when Mr. Margolis couldn't hear very well; he told Kevin he would call tomorrow, so, when Kevin found a spot with good reception he inturn contacted me ( Regina ) and asked that I give Mr. Margolis a call as Mr. Margolis has changed his course of action again, ( this is very misleading it reminds me ( of the movie "A Time To Kill" where the opposing attorney put on the expert witness to discredit his testimony stating he had been charged it statutory rape ( opposing counsel twisted the truth in order to sway the jury against his credibility, but it wasn't until Plaintiff's counsel laid out the truth to the charges the expert witness was charged with; and that the expert witness and his then girlfriend

**were teenagers at the time with a couple of years difference; but the expert witness was considered an adult while the girlfriend was still considered a minor and that he later married his then girlfriend the moral here the defense twisted the truth, deceiving ), in this Motion but it's in the Bar responses why not here this is again the perfect time to note it as well as the yelling, Mr. Margolis stated took place on March 09, 2006, one further point, why not mention the behavior in his correspondence to us instead you see the clear admission stated Mr. Margolis was to file a brief ( very, very deceptive )**

9. Faxed, Emailed and Mailed letter dated April 07, to Mr. Margolis from Regina Cash Stamps follow-up to the meeting and referencing the Scheduled Conference before the Court . Mr. Margolis lead us to believe this cancellation was at the will of the Court. ( misleading )

3. Mr. Margolis response dated April 27, 2006, to Ms. Sharpe ( see attached the phone records of February 23, 2006, (

22 minutes ), and call placed per Mr. Margolis request the following day February 24, 2006, number 9, where I was told Mr. Margolis was with a client and when I called back see number 10, I was told Mr. Margolis was in a conference and number 11, 2 minutes later after giving my name at the request of the receptionist and or secretary, I was put through to Mr. Margolis and he didn't answer. ( very creative in distorting the truth )

4. Look at the 1st contract dated October 07, 2005, and compare it to the contract dated October 21, 2005, ( we had him make changes to reflect some of the verbal actions during his preinterview via phone with us ( Regina and Allen Stamps ) he stated he would take; if we gave him the opportunity to represent us. Mr. Margolis stated how sorry ( see 1st contract) he was for what we had gone through and that previous counsels had failed us and it was improper and a violation of our constitutional rights what the Honorable Robert Benham did who knew better. Mr. Margolis stated he

> would investigate the misconduct ( he called it FRAUD) surrounding the Estate of Alfred Cash, Jr., ( see revised contract dated October 21, 2005 ) and other parties ( he said previous counsels to file an action ( malpractice against ) as well as Nadart and Schilling Lincoln Mercury. ( he advised of us after getting his retainer that we should leave Schilling off the complaint since Nadart was the one that improperly distributed our father's 401 (k) fund account ).

Mr. Margolis stated he viewed the evidence when he met with Kevin Cash on September 27, 2005, ( see 1st contract ) and we had a clear winning case of Fraud. We told Mr. Margolis we were convinced, all the attorneys in Memphis are dishonest, corrupt, and we had no faith in them any longer, they say one thing and start doing another after you've hired them and that's been our case thus far. Mr. Margolis assurred us he was different and didn't mingle in the social light with others. Mr. Margolis was very sincere sounding so I ( Regina asked this question "Are you vigorous enough to go after Nadart and Schilling Lincoln Mercury because that's what we're looking for someone to truly protect and

fight for our rights as you say that have been violated ? His reply was yes ). We told Mr. Margolis if we hire you we don't want you communicating with the Defendants' before the Civil Lawsuit is Filed in Federal Court. Mr. Margolis paused a moment and agreed and it was at this moment he asked for a five thousand dollar fee for his services. We asked if he had mentioned this to Kevin because he never mentioned it to us regarding this fee, his reply was yes, we asked if we could call him back later as we needed to discuss this with our other siblings ( Alfred III and Doug Cash ). We immediately contacted Kevin who informed us that Mr. Margolis never mentioned a fee to him not during the phone conversation or the meeting; he was just very interested in taking the case especially when a former client had contacted him concerning our case. So, when Kevin called he ( Mr. Margolis ) stated to him ( Kevin ) if you have everything you're telling me you have; we need to meet so they met.

Before, we retained Mr. Margolis services he laid out a course of action he planned to take: first file the Complaint in October 2005 no later than November 2005, as he stressed the importance of filing it timely because the sixth anniversary of our fathers' death was quickly approaching and

the Complaint would need to be filed befored January 14, 2006, so he had him put in the contract if the complaint was not filed by November 2005, as agreed, we would pay no more monies until it was filed ( see contracted dated October 21, 2005 ), second when Defendant's respond he will file his brief along with all the evidence showing the trail of Fraud and Conspiracy and after the filing of this the Defendants will make a serious settlement offer.

Now, after we retained Mr. Margolis he filed the Civil Lawsuit against Nadart ( see complaint dated December 09, 2005, ). Mr. Margolis stated he didn't file in November because his wife had been in a accident ( Regina sent a wish you well card c/o Mr. Margolis for his wife ), but failed to file against Schilling Lincoln Mercury Dealership ( as stated previously when we questioned this Mr. Margolis response was let's just **sue NADART/NADA** they are the ones that improperly distributed the funds of your fathers 401(k) account.

5. Mr. Margolis letter dated April 27, 2006, response to complaint filed against him along with another letter dated April 27, 2006, demanding $412.10. This was the first time we

had seen or heard of this charge it came only after the complaint was filed and when he answered the complaint did he enclose this fee to them as well this is a form of retailiation for filing the complaint. (see letters dated April 27, 2006)

12. Mr. Margolis letter dated April 10, 2006, with attached copy of Scheduling Order entered by the Court dated April 07, 2006, and both parties Disclosures, ***VERY IMPORTANT NOTE*** under Rule 26 (a)(1) disclosures made in this action, Mr. Margolis failed to DISCLOSE CRUCIAL Discoverable Evidence as he stated to clients he would do; as follows :

1. Affidavit of Mr. Thomas Vastrick, dated June 06, 2001, Mr. Margolis disclosed a copy of the Forensic Document Examination Report, dated, May 17, 2001, and drafted by Mr. Vastrick. There's a pattern or record by Counsels in entering Mr. Vastrick's Report Finding but ommitting Mr. Vastrick's, SWORN Affidavit, in which the Court wouldn't allow either. SEE : Hearing dated January 10, 2002, Mr. Seymour Rosenberg's, Memorandum Of Law In

Support Of The Petitioners' Motion To Set Aside Judgment And For Rehearing and Mr. Julian T. Bolton's Supplemental Memorandum Of Law in Support of Petitioners' Amended Motion To Set Aside Judgment and for Rehearing, please refer back also to Mr. Margolis's Contractual Agreement, as he lays out, see page 2 of 4 , last sentence "As your attorney, I hereby warrant and agree that I have the following obligations to each of you individually and collectively as my clients:

1. I shall provide competent representation to a each of you. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

2. I shall act with the reasonable diligence and promptness in my representation of you which includes the timely filing of all necessary pleadings and keeping you adequately appraised on case developments.

(***Please note that these conditions and caveats have been taken directly from the Tennessee Rules of Professional Conduct for Attorneys***)

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2. Clients Perfection of Claim, SEE : Kevin Cash's perfected claim; attached to Mr. Bolton cover letter to Mr. Jim Apistolas, NADART's Investment Choice Plan Manager, dated January 11, 2002. RED FLAG, AS MS. Marie A. Washington never followed Mr. Apistolas request in giving the IC-10 Benefit Request Forms to us, istead she denied ever having knowledge of this but it's clear as Mr. Apistolas wrote in his letter to Her dated March14, 2000. SEE : Letter to Ms. Washington dated March 14, 2000, please.

another factor in reference to the SCHEDULING ORDER hearing, ( Clients questioned him ( Mr. Margolis ), on the cancellation , as Mr. Margolis, made us believe the Court ( Honorable Judge Vescovo ), cancelled the hearing and it was after clients saw defendants attorney of Glankler Brown ,Jeffery Jarratt, thanking him for calling Magistrate Judge Vescovo's, office and nudging her to enter the proposed, Scheduling Oder. ( once again misleading clients, not straightforward with the truth, not to mention changed course of actions) see all evidence and the depositions of the witness along with the Hearing dated January 10, 2002, Memorandum Law in Support Mr.

Bolton's and Mr. Rosenberg's and Mr. Apistolas letter dated March 14, 2000, Mr. Vastrick 's report findings along with Affidavit, copy of Will ( once again Mr. Margolis wasn't truthful look at Miss Washington's cover clearly states address of Alfred and Doug Cash very deceptive no as he told us he's a litigator and he takes the law and the truth and twist it to his advantage well its clear)

14. Mr. Margolis letter dated April 13, 2006, Settlement Offer from Nadart ( see page 3 of 4 all evidence apply see Mrs. Hobbs and Miss Washington complaint filed July 26, 2002, see depositions of Wayne Williamson, Lisa Paton, Eddie McLaurin, Hearing, Supplemental Memorandum of Law in Support of Petitioners' Petition For Injunctive Relief ( that was never filed ), Memorandum Of Law In Support Of Petitioners' Motion To Set Aside Judgement And Rehearing ( filed by Mr. Rosenberg's Motion To Set Aside, (that was denied and Mr. Magolis blames) under number 7 1st paragraph second sentence "I have no doubt that your family has been defrauded, ( verifing clients claim ), disrespected ( slandered, injured by parties involved and then Mr. Margolis goes stating ), and quite frankly, put through the wringer in everything relating to your father's estate. I

believe that you did not have effective assistance of counsel in Seymour Rosenberg ( who received a $ 5,600.00, check ( now see Mr. Magolis blaming Rosenberg "his misfeasance resulted in original order against you, Please, when is LAW going to step in for us, (Cash Heirs), made out to Mr. Rosenberg ( before he was our counsel) and Regina Cash that Miss Washington as ordered by the Probate Court ( " Judge said send the check to Cash Family and Mr. Rosenberg told Miss Washington send the check to me, as the Cash Family had filed a Verified claim against the Estate for funeral expenses they paid; Ms. Washington put in Mr. Rosenberg and Regina Cash name on the check and that's exactly what Mr. Rosenberg charged us for his service, and later received a check over $ 700 due to a lien he placed on the case although, in the contract we agreed that would be the total amount period; we can provide upon request, Mr. Margolis continues saying ) " and that you were the victim of fraud ( again verifing our complaint filed ), and that you were the victim of fraud on the part of Ms' Hobbes and Washington ( verified, merit, Complaint filed with the Board of Responsibility July 26, 2001, "Moral Turpitude," Knowling deprived us of the IC-10 Benefit Request Forms for fund held in the 401( K ), in March of 2000 ( see letter from Invest Choice Plan Manager, Jim

Apistolas, to Ms. Washington dated March 14, 2000 and enjoined Mrs. Hobbs see Restraining Order ) and Schilling Motors ( Plan Administer signed our Perfected Claim see Mr. Bolton cover letter dated January 11, 2002, enjoined NADART, Joint Liability, see letter dated May 11, 2000, from McGuire Woods Battle & Booth also see May 02, 2000, facsimile trasmittal sheet to Probate Clerk Mr. Chris Thomas on May 02, 2000, during the hearing, notice all the writing "must have legal counsel, May 12th FRIDAY, Whether to convert Temp. Restraining Order to Temp. Injunction, No one to Disperse Funds untill TRIAL, 5/2/00 Jim Apistolas & Marilyn Ross ( attorney ) COMMUNICATE ABOVE INFO. THEY WILL CONTACT US FOR FURTHER PROCESS" and then Mr. Margolis letter continues stating ), " I believe that your father's signature was fraudulently placed on the beneficiary form ( verifing Forensic Expert Thomas Vastrick's findings and Affidavit, BURDEN OF PROOF ), and that the proceeds of the 401 (k) were improperly distributed ( to minor then adult now, Justin Alan McLaurin, inspite the Pefection of our Claims, MISAPPROPRIATION OF FUNDS ), now last paragraph Unfortunately, the law is what the law is and the facts are what they are ( the fraud existed in 2000 when we tried to bring this Fraud

upfront to put and end to it before, it reached this juncture and we were denied justice at every level, the law didn't apply to counsels when they sought an ex-parte relief on the restraining order nor did it apply to the contestment of the Will, dated October 16, 2000, or with the missing transcript of March 19th and 20th of 2002 that Mr. Margolis going to get since he said his wife was a court reporter and it shouldn't be hard to get because it not a lot of transcriptionist in Memphis or in counsels Hobbs's and Washington's, wantonness of the law ).

15. Email and via US mail dated April 07, 2006, from Cash Family rejecting settlement offer from Nadart ( once again Mr. Margolis was misleading see settlement offer from Nadart page 4 of 4 last statement ). "**Please talk among yourselves regarding your desires. In order to avoid having to answer the same questions several times, I request that you memorialize any comments or questions to me in a letter so that I can give you detailed and appropriate response.**" We have been compliance in every facet.

16. Mr. Margolis letter dated April 21, 2006, regretting our decision to the settlement offer of $7500.00 stating our decision is against his advice so he will need more than an email (now,

again we complied with Mr. Margolis wishes page 4 of 4, last statement and again changing his course with us ) Mr. Margolis sees as noncompliant when this was his request ( dishonest )

17. Mr. Margolis letter dated May 10, 2006, Motion To Withdraw ( We were completely astonished when we found out that Mr. Margolis Motion To Withdraw was granted **seven ( 7 ) days later** on May 17, 2006, when we received the May 23, 2006, letter without the other parties response well the Defendants responded as I was told when I contact the Law Clerk Miss Lisa Whitman as I inquired as to how did this happen without allowing us a chance to respond, I was informed that we have until June 26, 2006, to find counsel at such a critical state case of Fraud.

18. Mr. Margolis letter dated May 11, 2006, Memorandum In Support Of Motion To Withdraw and Certificate of Cosultation

19. Mr. Margolis letter dated May 23, 2006, informing us that he didn't know his Motion had been granted seven (7) days later stating the Court clerk removed him from the notice list before the Order was entered as such he was not sent any notice that the Order was entered what

we find so amazing is the response of the Defendants' was on the same day as the Order was granted I ( Regina ) was given this information by the court and that a modified order had been filed. Notice the swiftness that Mr. Margolis has in notifying opposing counsel and requested he start the 30 days from this date but if we need additional time, please let him know immediately and he will make the request, although he did state earlier he will not be receiving any notices as to any pleadings or filings in this cause. (Mr. Margolis stated the matter is currently in Discovery, and the trial date is more than a year off, Movant's withdrawal should not result in a delay of the eventual trial of this action ). Mr. Margolis states should not (would not) so this could and already has resulted in a delay.

20. Mr. Margolis letter dated May 24, 2006, informing us of a Motion that he filed asking the Court to give us additional time with which to find substitute counsel. Please note it is up to the Court to either grant this Motion or not. As things stand now, you are required to have new counsel report to Court by June 16, 2006. (we didn't have a chance to respond: to his Motion To Withdraw as it was granted seven (7) days later ).

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21. Mr. Margolis letter dated May 30, 2006, allowing additional time to file cousel granted by the court per his request previously. As stated previous I ( Regina ) had already placed a call immediately upon receipt of May 23, 2006, letter granting Mr. Margolis' Motion To Withdraw **seven ( 7 ) days later**, without hearing our response, I spoke with Miss Lisa Whitman Law Clerk of Honorable Vescovo, and was told the time frame of Jan 26, 2006, to seek new counsel. Now, Mr. Margolis told us his clients as a litigator he takes the truth and law and twists it to his advantage its clear that's what he's done here.

22. Here's a letter dated May 09, 2006, from a former client of Mr. Margolis, Heather Burdison take a look carefully at her letter ( see letter dated 5/9/06 ) and see how Mr. Margolis ( without the enormous amount of evidence that we have ) zealously worked her case, no up front retainer fees, no rejection of settlement to sign, her case had never been filed and when it was filed the statue had tolled, but they were able to get by this, the case had gone through several lawyers even one from Seymour Rosenberg's office, one lawyer let the case get dismissed without her knowledge, but it ended up in the

hands of Mr. Margolis and it turned into a malpractice case, with everything that could go wrong it did go wrong during her case, Mr. Margolis was able to get everything done with no problem at all, now Heather was 3 months pregnant at the time of her incident and her son was five (5) years old when it was over. Mr. Margolis did this in less than a year, he retrieved a settlement that she was more than Happy with, Heather is the one that referred Kevin Cash to Mr. Margolis. Mr. Margolis did all of this with nothing to work with, we came to him with the preponderence of evidence, laid out before Mr. Margolis and paid Five Thousand ( $5000.00 ) dollars RED ALERT as it is clear disparity and discrimination here. Read Ms. Burdison's letter carefully; she will give testimony if needed.

23. Letter dated March 24, 2000, from Marilyn Hobbs attorney for then minor Justin Alan McLaurin (now, adult) to Mr. Apistolas notifying him of the Restraining Order that Mrs. Hobbs enjoined with Miss Marie Washington attorney for **James Albert Cash**, Executor of the Estate of Alfred Cash, Jr., (C- 1427 Probate Court record ), filed on March 23, 2000, in which she sought **ex-parte relief,** Neither counsel notified our counsel Kathy Gomes, **see letter**

dated March 29, 2000, directly attached Ms. Gomes contacted Mrs. Hobbs, "stating documents which you claim show this interference were not attached to the Motion. As attorney for the adult children of Alfred Cash, Jr., I should have been notified of your application since you received ex-parte relief. In addition, it is my understanding that a Temporary Restraining Order only lasts fifteen (15) days before a hearing must be ordered. Please provide me with a copy of your supporting documentation and, in the future, please contact me before you seek ex-parte relief. Counsels Mrs.Hobbs or Miss Washington never complied with Miss Gomes request ( Law didn't apply to opposing counsels ( " Rule 3.4 (a),(d) Fairness to Opposing Party and Counsel a lawyer shall not: (a) unlawfully obstruct another party's access to evidence or unlawfully alter; destroy or conceal a document or other material having potential evidentiary value. ( see Board of Responsibility Complaint filed July 26, 2001, page 1 of Facts Of The Case ), Restraining Order filed three months after death of our beloved father Alfred Cash, Jr., states, see page 2, second paragragh "On belief Respondent was the sole drafter of the 401K agreement and beneficiary form and presumable reviewed the terms and benefits ( Respondent being Nadart. Please make note of this statement as you can refer back to it

later, to see inconsistencies from past to present, please keep in mind when you view the Hearing on January 10, 2002, and when you view the depositions of Mr. Williamson, Vice President and General Manager of Schilling Lincoln Mercury Dealership, Mrs. Lisa Paton, former Office Manager of Schilling Lincoln Mercury Dealership ), of the agreement with the deceased prior to his execution of same. Respondent accepted monies from the deceased to fund the Plan and housed the agreement for nine years without challenging the completion of the beneficiary form or ineligibility of the named beneficiary to receive the funds under the beneficiary form. Please make note of this statement as Mrs. Hobbs states the agreement was housed for nine years, (now, NADART is denying they had anything to do with this, yet NADART let this go on without challenging Mrs. Hobbs and Miss Washington, attorney for James Albert Cash, Executor of the Estate, sent a copy of the Will , see Miss Washington's letter dated February 17, 2000, for the Will location, also note the addresses for Alfred Cash, III & Doug Cash on here as Mr. Margolis stated he didn't have; to Mr. Apistolas trying to retrieve the monies for two of the brothers James Albert Cash and Robert Cash page 2 of the Will the 401K account number 412-68-1654 through my employer

Schilling Lincoln Mercury, where's Nadart ???, what happened to the beneficiary form???, If it did have a designated beneficiary what is it doing in the Will it bypasses this , Red Flag, why are two of the brothers James Cash and Robert Cash devised and bequeath this money???, Red Flag , the IRA belonged to our former stepmother Mary Cash Dicson, in which Miss Washington took around nine or ten months to notify her; after I told our counsel Mr. Rosenberg and ( somehow, breached ) it got back to Miss Washington), Red Flag see page 1 LAST WILL AND TESTAMENT OF ALBERT CASH, JR., not his name it's Alfred but "Albert" is executor James Albert Cash's name, please take note under Article II regarding State Farm Life Insurance Policy, this belonged soley to the four natural heirs only but it states here devise and bequeath to my son, Justin A. McLaurin, then minor now adult. VIEW THIS will carefully pay attention to the contesting of the will no date in witness whereof,i have signed this instrument as my last will and testament, in the presence of the individuals witnessing at my request, this_____ day_____, 1999, at memphis, shelby county, tennessee. as you can clearly see red flags are all over this document in which the

401(k) account was born. ( fraud, fraud, fraud, forgery, forgery, forgery no matter how you twist it )

24. NADART faxed dated May 02, 2000, letter to the Probate Court Clerk Mr. Chris Thomas from Mr. Jim Apistolas, Manager, Investment Choice Plans on National Automobile Dealers & Associates Retirement Trusts (NADART on company letterhead, RE: Alfred Cash, boxed marked urgent) Mr. Wayne Williamson kept delaying the Court and a called had to be placed to him as Honorable Benham firmly offered the service of the Sheriff to escort Mr. Williamson if he didn't get to Court ; who was without counsel when he finally showed up ( see a more detailed account in Complaint against filed July 26, 2001 ), Make note of Mr. Williamson's writing on the cover letter May 12th FRIDAY circled with arrow pointing to Must have Counsel with two lines drawn underneath, wheter to convert Temp. Restraining Order to Temp. Injunction, No ONE to Disperse FUNDS Untill TRIAL, 5/2/00 Jim & Marlyn Ross ( Attorney ) COMMUNICATE ABOVE INFO. They will Contact us For Further Process ( NADART ENJOINED no denying , once again perfect time to stand up and distant themselves and follow their Master Plan that they are govern by but they didn't liabile ), the

Honorable Benham continued the hearing until counsel was sought by Mr. Williamson and Cash Family ( as our attorney Kathy Gomes withdrew May 01, 2000, verbally to us without official notice to the court and the Honorable Benham advised Court to contact Miss Gomes to put in a withdrawal with the Court ), until May 12, 2000.

25. McGuire woods Battle & Booth Firm letter dated May 11, 2000, letter to Jim Apistolas, Manager, Investment Choice Plans National Automobile Dealers & Associates Retirement Trusts, confirming counsels Miss Washington and Mrs. Hobbs have stipulated that Nadart and Wayne Williamson ( Vice President/General Manager of Schilling Lincoln Mercury once again notice his titles and the company ), need not appear at the hearing on the above referenced matter. In addition, our local counsel, Kevin Cox of Glankler Brown, arrow pointing to name with a phone number 525-1322, has confirmed with Judge Benham's clerk that the appearance of Nadart and the dealership is unnecessary. Mr. Cox will appear at the hearing and advis the court that NADART and the dealership have turned over the relevant documents to the parties regarding the 401K plan and that NADART is prepared to interplead the funds to the court or hold the funds in a constructive trust

until the beneficiary dispute is resolved. This is from Lawrence P. Sandor and he CC: Kevin Cox , Wayne Williamson and Marilyn Ross.
**Important Fact, this was the Perfect opporunity for NADART to state their noninvolvement as Schilling was without counsel but instead NADART complied in every way with this action they had Knowledge of the beneficiary form and said or did nothing, they enjoined in this act of FRAUD as you can clearly see by their own admissions here notice all the reds, Nadart and Wayne Williamson, Nadart and the dealership, 401k plan, interplead (they never did, " an eequitable action in which a debtor, not knowing whom among his creditors a certain debt is owed, and having no CLAIM or STAKE in the fund or other thing in dispute other than its proper disposition, will petition a court to require that the creditors litigate the claim among themselves", AND LAST BUT CERTAINLY NOT LEAST THE FRAUDULENT BENEFICIARY FORM. CLEAR LIABILITY.**

26. Mrs. Hobbs letter dated May 15, 2000, see second paragraph "Well, it is my information that all parties are now in agreement and will consent to the funds held by NADART to be issued to the Estate of Justin Alan McLaurin

(then minor now adult ). Once more Nadart HELD BY clearly established no denying and Mrs. Hobbs attached consent orders ( waiver forms) for our consent to all rights, titile and interest in the Schilling Lincoln Mercury Nadart salary deferral 401k profit sharing plan #400073 held for the benefit of Alfred Cash, Jr., deceased, waive notice of a final accounting from Nadart and consent to the release of said funds to Marilyn Sellers-Hobbs, attorney for estate of Justin Alan Mclaurin, a minor. as a reminder please keep and make note of how often the changes take place: Nadart, Nada, Schilling Lincoln Mercury Nadart salary deferral 401k profit sharing plan. There is one thing we all can be sure of is NADART'S clear concise connection ( too late to try and separate yourselves, now) with Schilling Lincoln Mercury. Instant, red flag Why would you send out these forms and you're client the MINOR now adult Justin McLaurin was the beneficiary FRAUD, FORGERY see Complaint filed July 26, 2001.

27. Seymour Rosenberg letter dated August 24,

2000, to Regina Cash-Stamps informing her of the Release of Verified Claim, in which we had to file a claim against our Fathers Estate to recover funeral expenses that the executor James Albert Cash was suppose to pay, a Court Order, Quit Claim Deed ( they Quit Claimed our home to add the then minor, now adult Justin McLaurin name on it and Miss Washington sent the Schilling Motors Profit Sharing Plan Designation of Beneficiary Page RED FLAG injurious, damaging,deceptive, dishonest, cunning ).

28. Mrs. Hobbs letter dated October 26, 2000, verifing receipt of his letter dated October 26, 2000, requesting the original Designated Beneficiary Form of Alfred Cash, deceased. Unfortunately, I must advise you that you are directing your request to the wrong estate. RED FLAG Mrs. Hobbs is the counsel for the minor then now adult, Justin McLaurin who she states is the beneficiary on the purported designated beneficiary form, why would she send out waiver forms to Us ( CASH HEIRS ) and why wouldn't she have this form as she claimed previously her minor client was the beneficiary refer back to Restraining Order filed, Orders, Please remember Miss Washington attorney for Executor of the Estate of Alfred Cash, Jr., C-1427

in Probate Court sent a Will to the Investment Choice Plans Manager, Jim Apistolas, trying to retrieve the monies for her client, James "ALBERT" Cash, and Robert Cash as it states in the Will ( see again), deceiving, misleading, dishonest, underhanded, mischievous, damaging. Mrs. Hobbs works as a Juvenile defendant (wow) SEE Complaint filed July 26, 2001

29. Seymour Rosenberg letter dated November 21, 2000, to Mrs. Hobbs requesting yet again the Designated Beneficiary informing her the form was filed with the Court on July 27, 2000, where she obtained the NADART benefits for minor client, Justin Alan McLaurin ( adult now ). Noncompliant

30. Seymour Rosenberg letter dated November., 21, 2000, to Mr. Kevin Cox, referring to his letter dated October 23, 2000, along with 3 questions that Mr. Rosenberg asked and attached the know your rights, under the Employee Retirement Income Security Act of 1974, also called ERISA, you are entitled to certain rights and protection as a participants shall be entitled to : If you request certain materials from the Plan, and they are not provide to you within 30 days, you may file suit in federal court. In such a case, the court may impose penalties up to $100 per day

until you receive the materials, unless the materials were not sent for reasons beyond the control of the Plan Administrator. ( never received a response, fraud committed )

31. Mr. Wayne Williamson deposition taken February 16, 2001, now I asked you to please make note of the many changes from past to present. Please read these particular pages carefully: page 6 lines 1-25 , page 7 1- 25, page 8 lines 1-25, page 9 lines 1-25, page 10 lines 1-25, page 11 lines 1-25, page 12, 13, 14, 15, 16, 17, lines 1-25, page 18 lines 10-22, page 22 lines 1-25, page 23 lines 10-21 (Profit Sharing and 401K and that's exactly what Mrs. Hobbs asked the court for her client ) and line 25, page 24 lines 1-25, page 25 lines 1-24, page 26, 27, 28, 29, 30 lines 1-25 31 lines 1-18, keep in Mi.. !, Mr, Cox is counsel of record and this is a sworn deposition you can refer back to this later Please see the attached exhibits as well, Nadart's Beneficiary Form, called IC-30 now look at the Schilling Motors, INC. ( NOTICE SPACE HERE ) profit sharing plan designation of beneficiary presented by Schilling Lincoln Mercury vice president and general manager Mr. Wayne Williamson without a social security number on it 3 deposition exhibit 2-16-01

32. Compliant filed against Marie A. Washington and Marilynn Sellers-Hobbs, filed July 26, 2001, we tried to stop this before it reached this point. FRAUD AND CONSPIRACY TO CONCEAL THE FRAUD

33. Mrs. Lisa Paton deposition taken December 14, 2001, Attorney/Commissioner Julian T. Bolton of The Cochran Firm **Mrs. Paton is the former Office Manager of Schilling Lincoln Mercury Please read her deposition carefully and keep in mind the many changes page 15,16 reference the social security number she added on the deceased beneficiary form, 18 this is where defendants witness Travis Anderson comes in also notice now NADART didn't give any employee beneficiary forms, 19 Is this form a Schilling form? Yes, sir Q. First Tennessee form ? A. No, it's a Schilling form Please read carefully as you can refer back to later when it comes to the Hearing dated January 10, 2002, page 20 regarding writing on the beneficiary form, now, page 24 look at line 17 Q. Did you have a 401k with Schilling ? A. Yes, sir line 19 Q. Did you fill out the same form? line 20-21 A. No, I wasn't-- I was later. 21 This form was like from the old First Tennesse. ( we thought earlier it was a Schilling Form RED FLAG ), page**

25 1-25, page 26 1- 17 writing the social security number on the beneficiary as Travis Anderson (works at NADART Team Leader, he was CC in on not having a properly completely beneficiary form, see letter dated March 14, 2000, to Miss Washington) needed it to identify Mr. Alfred Cash, Jr.,'s , 401k fund clearly this witness participated in this act as well he did have a Social Security number which in fact is the Members of the Plan, Identification Number it should have gone no futher but as stated previously they continued on with this criminal act, page35 especially lines 7-22 Q. Did you ever have occasion to meet young Mr. Justin McLaurin? 9 A. No, sir line 10 Q. When did you first become aware that Mr. Justin McLaurin was Mr. Cash's son? 12 A. I guess at the time I saw this beneficiary form because the name wasn't familiar to me. I don't remember if one of the employees told me or if James Cash told me who he was. I know both of them told me, but I don't remember who said it first, you know, see line 24 A. Right. But I'm pretty-- thinking back, I'm pretty I sure it was Mr. James Cash that told. Please se Exhibits 1 to counsels Ms.Washington, Ms. Hobbs and Mr. Kevin C. Cox, Attorney for Schilling Lincoln Mercury And National Automobile Dealers' Assn. Retirement Trust c/o Glankler Brown, PLLC, Exhibit 2 Beneficiary Form that

Mrs. Paton affixed our deceased father Alfred Cash, Jr., 's Social Security Number to as she states in her sworn deposition there was no where on the form for it **RED FLAG FORGERY, FRAUD,** Exhibit 3 Mr. Apistolas letter to Ms. Washington dated March 14, 2000, and this is how he retrieve our names off of the Will ( yet Mr. Margolis states he wasn't provided Alfred and Doug Cash's address, when he clearly has the evidence, misleading ), Exhibit 4 Humana Exhibit 5 suppose to back of Humana.

34. Mr. Eddie McLaurin deposition dated December 14, 2001, see page 18 lines 2-25, 2 Q. Would it have been Wayne Williamson. 3 A. That's the name,Williamson.
4 Q. What did he tell You ? 5 A. I just don't remember all of that. 6. Q. Did he tell you that there was a pool of funds for Justin or not ? 8 A. No, not Justin. He told me that Al-- Al had a 401K, but he didn't tell me who the beneficiary was or anything like that. 11. Did you inquire specifically about Justin? 13 A. Yeah. 16 A. If I recall correctly he told me he couldn't give out that information because he was unsure of the beneficiary or something like that if I recall correctly. **RED FLAG what's wrong here this is the Guardian of the then minor Justin McLaurin now adult, who received the 401k funds and yet he the**

Vice President and General Manager of Schilling Lincoln Mercury was unsure of the beneficiary but he produced the beneficiary without the Social Security number see his sworn deposition see page 23 line 10 Do you remember giving a copy of the beneficiary form from First Tennessee ( not the Schilling form but now see change please continue to reference back from time to time for later as well) to anyone? 12 A. This? 13 Q. Uh-huh 14 A. Yes, sir, because we had to send it to NADART. They called me on that, ( knowing no social security number was on here as established see Mrs. Paton deposition ( added Social Security number for Team Leader Travis Anderson at NADART, enjoined Schilling and Nadart was always in this criminal act together, fully aware, when they received the fax from Schilling and by their clients own sworn testimony/depositions, as well as letter to Ms. Washington, more importantly we asked previously, Please make note of the changes, now its a First Tennessee form ( why does it have Schilling Motors ??? and not First Tennessee???, see page 23 lines 19 Q. It's a First Tennessee beneficiary form ? line 21 A.Yes, sir, line 22 Q. Did you send it to anyone else? line 23 A. Not unless legally someone's asked for it, no, sir. etc., FRAUD, FORGERY ) so, we sent it to NADART. page 21 lines 1-25, notice the eneficiary form Mr. Bolton presented to Guardian Mr. Eddie

McLaurin line 3 Is there anything incorrect on that form? 4 A. Is that suppose to be Justin's address up there, 4582 Tulane or is that Al's address? 6 Q. You know, it's pretty clear on the record as to what it says. I, mean, I cannot coach you on it. I'm sorry. 9 A. Well, I would have to assume, it's correct then. 11 Q. Did Justin ever live at 4582 Tulane? 12 A. Ever live there, no, visited, I guess, because I don't know Al's address, his address. 14 Q. But you would know where Justin lives ? 15 A. Yeah, I know where he lives. 16 Q. Where does he live ? 17 A. 4140 Double Tree Road. 18 Q. So that's incorrect, then, is that right, if that's to represent Justin's address ? 20 A. That's incorrect then. 21 Q. Do you have any idea who might have put that address on the form? 23 A. None whatsoever. **24 Q. When did you first see this form? 25 A. If I'm not mistaken, just now. RED ALERT the guardian had never seen the beneficiary form yet Justin was the beneficiary and Mr. McLaurin is the adult Guardian who handles the then minor, now adult, affairs. Need we present more, it's mind blowing, now, Please how can defendants state we (Cash heirs ), have litigated matter?**

35. Hearing recorded Thursday, January 10, 2002. Please read carefully page 5 read all look at line23-25 the objection presented by Respondents in this case is technical

and merely an attempt to prevent the evidence which supports the original Motion from coming forward.

page 6 line 4 And, Your honor, under the Rules of Evidence regarding amendments, the Court certainly has discretion to allow amendments through trial, even after a ruling, under the Rules of Evidence on Amendements and Supplemental Pleadings 15.01 and --

page 6 lines 17-25 And the Rule of Civil Procedure states, quite frankly, that the Court has leave to allow for Amendments, first of all, in the interests of justice; but also, relative to the proof as it develops; and that you have full discretion to allow the Amendments, and if-- you find it in 15.01 and 15.02,

page 7 lines 1-25 Amendments to conform to evidence.

page 8 lines 1-25 opposing party plenty of notice as to what evidence he had relating to the original Motion. line 11, we are attacking the validity of the document, and under Paragraph 3, Petitioners will show that the beneficiary form is not the beneficiary form produced on behalf of Justin McLaurion at the July 27, 2000,

meeting—and that is what the proof will show. line 19-25 And further, we are going to prove, under Paragraph 4, that the beneficiary form that was on file with NADART at the time of decedent's death was not the form presented at the July 27th hearing.

page 9 lines 1- 25, lines 2-7 The Court: What you want me to do is review the July 27th hearing. Mr. Bolton, Your Honor, I would like for you to hear the proof of fraud, in the interests of justice and equity.

page 23 lines 1-25

page 24 lines 1-25, lines 1-7 And all I would like the Court to do, Your honor, in the interests of justice and equity-- and that is all my clients wants -- all I as the Court to do is not rule until we have an opportunity to put the first iota of evidence before the Court.

page 24 lines12 - 14 The Court: Are we operating under the Rule or not operating under the Rule ?

page 24 lines 15-17 Mr. Bolton : We are now, Your Honor, I have just informed opposing counsel that we are.

page 24 lines 18-22 The Court : I am not getting into forgeries or anything like that. All we are getting into is No. 2, that the Court find the decedent-- strike that .

page 28 line 1-25, lines 11-13 The Court : I don't keep the records. There was a form presented, and I don't keep the exhibits.

page 28 lines 20-24 Ms. Washington : The only form I have is the one at the July hearing, that he had, because he sent it to me before. But we have the same form--

page 29 lines 1-25, lines 3-5 The Court : Each of you, give me what you contend was the form--

page 29 lines 6-13 Ms. Washington : I definitely have it. Ms. Hobbs : Your Honor, this is the form that NADART and Schilling faxed to each other four days after the decedent's death, and this is the form that was presented at the July 27th hearing.

page 29 lines 14-18 Ms. Washington : Your Honor, I have three forms, and they are all the same. They are the same. The Court : Let me look at them. lines 22-24 Mr. Bolton : Yes, I just

wanted to be sure that there is no issue about any form I present,

page 30 lines 1-25, line 21-25 The Court : there are two pages. One is the Schilling Inc., Profit-sharing Plan Designation of Beneficiary; and then there are some computer-generated printouts attached

page 32 lines 1-6, The Court : file I have a copy of the Designation of Beneficiaries identical to what we show. I am going to have the Court Reporter mark what's been in my file. It's been in my office since July. We will mark that as Exhibit 1, ( now, the Honorable stated on page 28 lines 11-13 " The Court : I don't keep the records. There was a form presented, and I don't keep the exhibits. ( as you can see something is extremely wrong, we would not have believed this if we weren't there )

page 32 lines 1-25, lines 7- 25, Mr. Bolton : May I ask, for the record, whether it was in the official Court file ? The Court : No, This was in my parallel file I keep in my office. Mr. Bolton : May I ask just for the record, Your Honor, would you have gotten it from the original official Court file? The Clerk : Yes. The Court : I would have gotten it from whatever was introduced at that

time. Mr. Bolton : Would it be the document introduced, or a copy of it ? I am just asking. The Court : This is a copy of whatever was introduced. And I don't recall whether it was an original

page 33 lines 1-25, or a copy that was introduced, but this is a photocopy of whatever was introduced in July that I happen to keep in -- in complex cases, I keep a parallel file. That's where this came from. Mr. Bolton : May I see it? The Court : Show that to Commissioner Bolton, ( notice the Honorable Benham was getting upset and Mr. Bolton went from being called Mr. Bolton in attorney capacity to now, Commissioner Bolton, we were in sure awe) Mr. Bolton : And this will be the exhibit witout the attachments, is that correct ? The Court : Yes. Mr. Bolton : Thank you. The Court : That is what was utilized on July 27th. ( WHEREUPON, EXHIBIT 1 WAS MARKED AS REQUESTED. ) Mr. Bolton : Is Your Honor ready ? The Court: I am ready for the proof as to that not being the form that NADART had on file at the time of decedent's death. ( Nadart never challenged the beneficiary form instead enjoined ) Mr. Bolton : Yes, Your page 34 lines 1-25, Honor, I would like to call Mr. Vastric ( phonetic).

But before he comes in, Your Honor, I want to reiterate, I called for the Rule. I know that there are witmesses here that may expect to testify,

page 34 lines 7-12, The Court : Mr. Vastric is going to testify as to forgery. He is not going to testify as to whether or not it was the form produced on behalf of Justin McLaurin at the July 27th , 2000, hearing.

page 34 lines 13-15, Mr. Bolton : We'd get to that, Your Honor, as to when this signature actually occurred.

page34 lines 16-17, The Court : That is the form that was presented July 27th, 2000. page 34 lines18-19, Mr. Bolton : I understand, Your Honor. Does Your Honor-- page 34 lines 20-22 The Court : You have the latitude to prove that is not what NADART had on file. ( NADART accepted this )

page 34 lines 23-25 Mr. Bolton: Your Honor, I would have to prove it by proving that, in fact, this was not his signature.

page 35 lines 1-25 , lines 1-10 The Court : whether or not it is not his signature has

nothing to do with whether or not NADART had that on file, Commissioner. Mr. Bolton : Your Honor, let me just explain, Your Honor, so that you will understand my approach. And, of course, I had intended to approach it differently; but I am conforming to--

page 35 lines 18-23, Mr. Bolton : Now, quite frankly, what we are going to prove is that this is a transfer, that this is not the document he signed on January 2nd, 1990. And so it was not the document that was in there at the time of his death.

page 35 lines 24-25, The Court : Are you going to prove-- you are going to try to prove

page 36 lines 1-25, line 1-11 that it was a forgery, which is the allegations in the Amended Motion, and the Court is **not allowing the Amended Motion because nobody ever asked the Court to do it, and that came in long after the fact of what we are working with right now, is the Motion to Set Aside the Pending Order, that the beneficiary form is not the form produced on behalf of Justin McLaurin at the July 27,2000, hearing. ( as stated previously, we never had a chance to present our evidence in the interest of**

**justice ).**
page 39 lines 1-25, lines 4-22 Ms. Washington : Your Honor, we are going to object to the testimony of Mr. Vastrick because his clients had an opportunity to subpoena NADART. There were numerous subpoenas, and that is why all these people are her. He has subpoenaed all of these people, and it has nothing to do with what we are doing. ( she's right it has nothing to do with what we are doing IT HAS EVERTHING TO DO WITH IT )

page 39 lines 16-22 Mr. Vastric is a handwriting expert. He does not work for NADART. He has no connection with NADART. He cannot testify to anything in NADART'S files because he does not have anything in NADART"S file. ( Wow, what a **bold statement Mr. Vastrick does not have anything in NADART'S file, Ms. Washington by her own admission here. FRAUD, FORGERY, and Mr. Vastrick was baffled as to why he wasn't allowed to testify.**

page 39 lines 23-25 What's seems to be occurring is a Pandora's box is going to be opened up through a back door. ( now, if you've done nothing wrong why object to his testimony, we couldn't or allowed to object to Ms. Washington

and Mrs. Hobbs Restraining Order as ex-parte relief was granted, as we stated on numerous times to each of our counsels why does the Laws apply to us but not NADART or opposing counsels just look at the wrongdoings )

Please read the Hearing and it shows the trail of Fraud and Conspiracy to Conceal the Fraud that is actively growing it has to end we beg of you, put an end to this madness.

36. Mr. Julian T. Bolton letter to Mr. Apistolas, dated January 11, 2002, informing him that he ( Mr. Bolton ) advised us ( his Clients at the time ) to Perfect our Claim ( see Kevin Cash Perfected NADART Claim ) attached.

37. *READ CAREFULLY * Mr. Julian T. Bolton, SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' AMENDED MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING, ( MR. BOLTON WAS NOT ALLOWED TO PUT ON THE EXPERT; AND THE COURT DENIED OUR MOTION, as we have a record, so, that we could file our complaint in Federal Court, dated January 08, 2002 ), now read the PETITION FOR INJUCNCTIVE RELIEF attached with Laws and Penalties, he faxed to clients J as he was to

file this in Federal Court and he never did; Mr. Bolton stated the purpose for the hearing was to get the evidence on record to so, that we can file a civil lawsuit in Federal Court . ( mislead us )

38. Mr. Julian T. Bolton letter dated January 28, 2002, to Counsels Kevin Cox, Marilyn Sellers-Hobbs and Marie Washington, presenting his Alternative Order to Mrs. Hobbs first Order, as he took issue with all the findings of fact ( deceptive ), we asked ourselves since when does the Plaintiffs attorney prepare an Order on a denied Motion ( he did say although the judge clearly denied our motion, I take issue with all the findings of fact, which are spelled out in the order presented to me by Ms. Hobbs, we have a transcript of the proceedings so, there will be no issue regarding what happened in the event that the matter is appealed. ( never filed the Petition For Injunctive or the Civil Lawsuit in Federal Court, as agreed, what is wrong with counsels ? ).

39. Mrs. Hobbs first Order presented to Mr. Bolton, ***Please not first page, last paragraph, very last sentence Kevin Cox, attorney appeared for NADART and submitted the beneficiary form wherein Justin Alan ( refer to depositions, hearing, Restraining Order, as all the evidence apply ).

40. Mrs. Hobbs revised 2nd Order after Mr. Bolton presented his to her, ***Please note Kevin Cox, attorney appeared for NADART and submitted the beneficiary form wherein Justin Alan ( as this was the order signed; February 05, 2002, refer back to facts of evidence )

41. Mr. Julian T. Bolton letter dated July 26, 2002, to all counsels Marilyn Sellers-Hobbs, Marie Washington, Kevin Cox, reminding them of what Honorable Benham suggested, that we ought to settle this matter prior to any kind of will contest. I think that under the circumstances of this case and based on the proof that we have collected, that it is in the best interes of the **family to settle this matter. It is also in the best interest of NADART to settle this matter or else they may have to pay twice. ( Now, Mr. Bolton ask if we would give them a chance to clean up, now, we gave each nothing but chance after chance; opportunity after opportunity; and for what the continuation of active conspiracy to conceal the Fraud and Forgery that has been committed; where is justice for us, we've never acted outside of the laws, but we can't say the same for counsels )**

42. Miss Washington letter dated February 17, 2000, attached along with Will, RED ALERT

RED FLAG, RED FLAG, RED FLAG You mean to tell us a man such as Alfred Cash, Jr., who owned and ran several businesses, work with contracts as he had to pay attention to details ( see Wayne Williamson's deposition as he states himself, Mr, Alfred Cash, Jr., was one who paid attention to details ), didn't Notice the only place that has your name on a big heading of an Official Document in Preparing for your last wishes that you want carried out, ( this saddens us deeply, it's painful to see the injustice that has taken place here our father is not at peace ) and you or the attorneys that drafted the Will, the individuals witnessing ( Lyttonia Cunningham, attorney, her deposition priovided upon request and Danielle Lane Her deposition provided upon request) the document or the attorney that notarized the document that's missing the inked stamp ( Michael Harrell who James Albert Cash, stated he knew Mr. Harrell twenty prior and a business card was given to him back then with the Name, Number, Address and even before he became an attorney, accordingly to Mr. James Albert Cash's deposition will provide upon request now, that's truly amazing ), and you don't recognize your name isn't Albert, not to mention you put in an IRA that belonged to his ex-wife Mary Cash Dicson, but you devised and bequeath it to your to brothers when you had

another brother living then as well, your 401K account number 412-68-1654 which by the way is your NADART'S Plan number and you devise and bequeath this to your two brothers James Albert Cash and Robert Cash, but now there's a purported beneficiary forming naming your minor child ( Justin now adult ) who never lived at 4582 Tulane, your former office manager Lisa Paton of Schilling who handled important documents wasn't familiar with Justin only after death did they know and how through James Albert Cash, James Cash introduced Justin McLaurin as our brother the night of the Wake turn of strange events, FRAUD.

43. Mr. Thomas Vastrick, Forensic Document Examiner, Here is a copy of the Forensic Document Examination Report these are the documents Q-! Copy of Schilling Motors, Inc.Profit Sharing Designation of Beneficiary dated January 2, 1990, Exhibit 10, Findings The questioned signature entry on Exhibit Q-1 bears indications of having been written by Alfred cash, Jr., ( K-1 ). However, there is evidence that this signature did not originate on Exhibit Q-1. The questioned entry and the associated date entry sit significantly above the writing line. Examination of the submitted known handwriting specimens of Alfred Cas, Jr.,

demonstrate a habit, over a period of ten years, to write directly on the baseline. Based on this examination, it is my opinion that the questioned signature on Exhibit Q-1 is the product of an attempt to transfer the signature from an unknown document onto Exhibit Q-1.

44. Mr. Thomas Vastrick sworn AFFIDAVIT ( This is the document no counsel ever wanted out Mr. Rosenberg was the only one to reference it in his Memorandum Law IN SUPPORT OF THE PETITIONERS' MOTION TO SET ASIDE JUDGMENT AND FOR REHEARING, AS YOU CLEARLY CAN SEE IN THE HEARING HONORABLE BENHAM WOULDN'T ALLOW MR. VASTRICK TESTIMONY DENYING OUR MOTION THUS DENYING OF JUSTICE, THIS IS A MISCARRIAGE OF JUSTICE.

45. Mr. Seymour Rosenberg MEMORANDUM OF LAW IN SUPPORT OF THE PETTIONERS' MOTION TO SET ASIDE JUDMENT AND FOR REHEARING, In tihs Memorandum, Mr. Rosenberg statements of facts shows Schilling Lincoln Mercury NADART Salary Deferral 401 (K) Profit Sharing Plan, " the NADART Plan" valued at approximately thirty-two thousand, five hundred (32,500) dollars. ( Court Ordered October 16, 2000 ),

In Mr. Margolis's Response to the Board of Professional Responsibility page 2 , first (1st) paragraph, stated our agreement to accept a settlement offer; this was never discussed with Mr. Margolis ( false, what he did say is after he filed his brief attaching the evidence; NADART will make a serious offer; as they did not want this in Court and when the questioned was aked "If this case does go to Court before it could be finished it won't we'd WIN, NADART will settle ), or he never promised ( he's right he never used the word promised ( he altered, reworded, mixed the truth ) to file a brief ( refer back to letter dated March 13, 2006, he misrepresented, misstated,misquoted, in his response),we wonder why Mr. Margolis didn't include this in his response or the now demanded fee of $412.10 dated April 27, 2006, and he he did it certainly was not in our copy of his Response with exhibits attached. Mr. Margolis states in his response: stated loudness and angry tone exhibited by the clients. ( we have proof indicating otherwise, upon request, as his ( Margolis ) letter continues ), "and he states he drafted a rather lengthy letter to Ms. Stamps ( Mr. Margolis failed to state per Mr. Stamps' request so that Mrs. Stamps ( client ) would know; what was discussed in the

meeting ,once again perfect time to address the conduct/behavior if it were true, Mr. Margolis letter continues )," in my copy of the response", I, Regina Cash Stamps, did not have exhibit F attached to the copy sent to me from Mr. Margolis, so, please refer back to this document with the exhibits I, Regina Cash Stamps was sent, here in its entirety.

Mr. Margolis states in response timely filing page 2 of response paragraph 2, refer to the December 09, 2005, Complaint against NADART stamped ,2005-DEC-9 PM 1:05 page 1 of Mr. Margolis's cover letter dated December 09, 2005, Docket No. 05-2917 B An, * Important Note*, we have or see B/V on our copy, where is on our copy of the complaint ?

Mr. Magolis is trying to get us to accept the Seventy hundred ($7500.00 ) dollar offer from NADART see Exhibit B of April 27, 2006, response, Mr. Margolis lays out all of the can'ts and why nots, when he distinctily knows this is and was not what he told us Five Thousand ( $5000.00 ) dollars later, Mr. Magolis, with his misfeasance, and being supplied with the preponderence of evidence, laid out before him in this malicious criminal act; knowing we've been denied justice and our evidence never allowed by

the Probate Court or any Court and although counsels told us they would file Federally, they never did ( **Mr. Rosenberg see letter dated November 21, 2000, attaching a copy of ERISA's KNOW YOUR RIGHTS never filed Federally and Mr. Bolton's Petition For INJUCTIVE RELIEF, we came to the Coachran Firm to file a Civil Lawsuit in Federal Court when Mr. Bolton stepped in; to take the case himself, as we were there to see Johnnie Coachran ( he wasn't there and when we spoke with the investigator at the Coachran Firm he stated " This needs to go straight to the top ( Mr. Johnnie Cochran ) and that's what I'm going to do today, as they were interviewing valid cases to pull in clients during their grand opening, Mr. Bolton never filed Fedarally ), one things clear here it's always been out contention to file in Federal Court a Civil Action against NADART and Schilling, even though it has been established in the evidence you have before you, this would avoid Nadart from Schilling from shifting the burden of proof )** so, instead of Mr. Margolis zealously advocating for his clients ( refer to settelement letter dated April 13, 2006, and as Exhibit B, in response; he could have at the very least when he states Nadart has a good defense ( fraud committed by NADART and SCHILLING and conspiracy to conceal ), as to Res Judicata ( been decided ),

what about **ESTOPPEL BY JUDMENT,** estoppel "brought about by judgment of a court, the essence of which is that a similar question of fact presently in dispute has been previously determined by a court of competent jurisdiction ( Probate Court never allowed us to present evidence see Hearing, dated January 10, 2002, where expert witness was not allowed to testify pages 24, 28, 29, 35 lines 24-25, 36 lines 1-5 **"that it was a forgery, which is the allegations in the Amended Motion, and the Cort is not allowing the Amended Motion because nobody ever asked the Court to do it",** 37, 38 lines 1 - 25 , 39 lines 1 - 25, or Mr.Vastrick's Affidavit dated June 06, 2001, never entered into evidence see pag 23 of Hearing lines 21 -25 "no evidence has been presented on behalf of my clients, even today. Even the affidavit, Your Honor, is not evidence. It was merely notice to them.", only Mr. Vastrick's Report Findings see Mr. Bolton, Supplemental Memorandum Law In Support of Petitioners' Amended Motion To Set Aside, which the Court denied, exhibit 10 ) between the same parties( Cash vs. Nadart/Schilling) or their privies. 117 F. 2d 672, 678. Where is the diligent advocating Mr. Margolis mentioned ???as you look over the Hearing, dated January 10, 2002, you can clearly see the Miscarriage of Justice.

46. Mr. Margolis letter date April 13, 2006, stated on page 4 of 4 "After Mr. Rosenberg was discharged, during period of months when you could not obtain a substitute attorney and consequently acted as your own counsel ( writing letter to and making appearances before the Court ) many of your right were irreparably damaged and lost. Please note on the Memorandum of Law In Support Of The Petitioners' Motion To Set Aside Judgment And For Rehearing 1st page last paragraph, "The Petitioners were present at this hearing, unrepresented by counsel despite the advice of this honorable Court. ( Court Ordered Entered Octocober 16, 2000.) While the Petitoners had followed the Court advice and obtained counsel, they released the same after being advised of the difficulty of proving their suspicions that undue infleuence had been exerted upon their father in the making of his will. Ms. Gomes withdrew as stated previously, and you see we complied with the Court and retained counsel, ( misleading by Mr. Margolis ), page 2 of Memorandum " Pending the order of this Court, the Petitioner again retained counsel to investigate the continued rumors of wrongdoing within the distribution of their father's estate. During said investigation, it was discovered that the Designation of Beneficiary Form, presented to the Court, was

substantially different than the standard form used by NADART. It was also discovered that Schilling Lincoln Mercury's 401(k) plan was actually administered by First Tennessee Bank at the date noted on the NADART form presented to this Court. ( RED ALERT), ( once again Mr. Margolis was very misrepresenting in his response to this claim in his response ). At which time, the Petitioners filed their first, (1), Motion to Set Aside Judgment. ( once more, Mr. Margolis is misleading, deceptive ) Since that time, it has been determined that the signature on the Designation of Beneficiary Form apparently originated on some document other than the form to which it is now affixed. (Vastrick Aff.) Thus, the document received into evidence was a forgery, constituting fraud upon the Court. The Petitioners now seek to have this Court judgment set aside pursuant to Rule 60.02 of the Tenn. R. Civ. P. ( we're assuming Tennesse Rule 60.02 of Tennessee Rules Of Civil Procedures ), specifically adopted by the Shelby County Probate Court under Rule III. Now, Mr. Margolis reference to letter writing, and making appearances before the Court acting as your own counsel many of your rights were irreparably damaged and lost. By the time Mr. Bolton came on board there was little he could do ( well, as you can clearly see Mr. Margolis has not been

completely honest with recalling the facts, as we had counsel, as you can see, complied with request of Court, and the letters; he's referencing was another part of our conversation during his preliminary interview via phone with Allen & Regina Stamps, we informed Mr. Margolis, that we had to write letters( seven page letter to Honorable Benham ); due to counsel of ours, noncompliance to the reasonable request of bringing forth the documented evidence, in which Mr. Margolis stated was a good thing on our part it may have save our rights. SEE, written letters from CASH FAMILY 'S, "Objection To The Petition Of Administration For Sale Of Realty To Pay Unpaid Claims And Administrative Expenses And Motion For Restraining Order" responding to Ms. Washington's file Motion ( Pattern when theirs no counsel; opposing parties get very active ), and letter from CASH FAMILY to THE COURT IN RESPONSE TO MRS. HOBBS filing. SEE, TO THE HONORABLE JUDGE ROBERT BENHAM OF THE PROBATE COURT OF SHELBY COUNTY, TENNESSEE, DIVISION ONE. This is the same exact thing we are doing now writing a letter to the Honorable Judge Vescovo, responding to Mr. Margolis's Motion and Bar Complaint.

47. Letter dated July 18, 2002, from Honorable Judge Benham's Court Order On Pending Matters, where he stated he signed this document as a result of the hearing on July 10, 2002. This document was missing from the court but now states it was circulating among Nadart's attorney Kevin Cox and attorney Marilyn Sellers-Hobbs. This document had been circulating for one month and materialized when we informed the judge. Defendants were putting in and taking out documents of court at will.

48. Attached to Tab 47's Order Authorizing NADART To Release Funds dated July 11, 2002. Attached to Judge's Cover Letter Tab 47.

49. Attached to Tab 47's Order Authorizing NADART To Release Funds dated July 11, 2002. Attached to Judge's Cover Letter Tab 47.

50. Letter to Federal Court, Honorable Vesco.

51. Notice of Setting, Plaintiffs discovered non Jury Trial on document when plaintiffs clearly demanded a jury trial In the Complaint.

52. Court Order Denied Plaintiffs.

53. Letter from The Office of Attorney General.

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54. Board of Professional Responsibility. Letter dated August 2, 2006.

55. Letter dated August 10, 2006, from Board of Professional Responsibility regarding fees.

56. Letter dated August 24, 2006, from American Bar Association stating Plaintiffs have taken the appropriate actions.

57. Letter dated September 5, 2006, from the United States Department of Justice Fraud Section.

58. Letter dated November 8, 2006, from the Board of Professional Responsibility dismissing the complaint.

Additional exhibits start here TABS

59. Letter dated September 27, 2001. Consent Order Substituting Counsel for Petitioners, notice that Kevin Cox is the attorney of record for Schilling and NADART at Glankler Brown.

60. Letter dated July 3, 2001 to Mr. Smith, owner

of Schilling Lincoln Mercury informing him of the injustice in his establishment. Plaintiffs copied in Mr. Brady at NADART.

61. Letter dated June 10, 2002 to Plaintiffs with attached motion for order authorizing NADART to release funds. This order shows NADART was a "no show" at the hearing held on January 10, 2002, but NADARTS Counsel Kevin Cox (who by the way was also the Counsel for Schilling Lincoln Mercury). Mr Cox was copied in, as well as Mr. Minnis (the director of Legal Affairs in Virginia); Mr. Minnis is also being copied on precedings now, same law firm Glankler Brown just different attorneys.

62. Letter dated July 2, 2002 to Mr Bolton referencing the 401(k).

63. Letter dated July 23, 2002 to Mr. Holden at the U.S. Department of Labor explaining the conspiracy and concealment to continue covering up the Fraud with fax transmittal page attached.

64. Letter dated August 20, 2002. Referencing settlement conference as the Honorable Benham stated and re-capped what NADART needed to bring: plan document, summary plan description, trust agreement, setting up the plan, if separate from the plan and any other instrument under which the plan was established or is operated. Plaintiffs were the only ones to comply. Interested parties NADART and Schilling never did.

65. Letter dated September 4, 2002 to Mr. Bolton requesting Civil Action be filed against Schilling Lincoln Mercury and NADART.

66. Fax cover from Ms. Griffs at First Tennessee to Ms. McEl[illegible] at the Cochran Firm, showing the requested information; the attached balance of Mr. Alfred

Cash's Profit Sharing account at Schilling as of 1/1/99.

67. Audio recording of Mr. Apistolas

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68. Audio recording of Mr. Bolton

69. Video Deposition of Wayne Williams

70. Audio recoring of maybe Mr. McLaurin

71. Audio recording of Mr. Deandre of NADART

What is clear is there is a pattern here, by Counsels, past and present, on issues with the statement of facts but what counsels do have in common, is the Slandering of their clients; all because we seek justice; to honor our deceased father's, Alfred Cash, Jr., last wishes. Look at the price clients have paid under the name of Justice.

**Now, with the preponderence of clear and convincing, beyond a reasonable doubt , of evidence, laid out before you, Please put an end to this malicious criminal act of FRAUD, FORGERY AND CONSPIRACY TO CONCEAL AND LET JUSTICE FINALLY PREVAIL.**

## V. ISSUES OF FACT

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1) NADART breached their fuduciary duty to Plaintiffs; when Nadart participated in "fraud and conspiracy" to conceal the fraud and "knowingly and willfully joined in a plan to accomplish an illegal result", that defrauded the plaintiffs out of their share of the 401(k)/Profit Sharing account of their father, Alfred Cash, Jr.

2) NADART knew there was no properly completed beneficiary form for Alfred Cash, Jr., as the letter dated March 14, 2000, stated clearly that was sent from NADARTs' Investment Choice Manager Jim Apistolas, to attorney Marie Washington.

3) NADART failed to disclose information under the plan to Plaintiffs, that was requested by plaintiffs former attorney Seymour Rosenberg in 2000, as he attached the know your rights paper

with the $100.00 per day penalty if the information was not received in 30 days.

4) NADART is aware of the $ 100.00 per day penalty for failure to disclose material information when a participant or beneficiary requests it. NADART has 30 days to supply each beneficiary that made the request with the information. NADART is aware that the Secretary of Labor can assess one thousand dollars per day for this violation.

5) NADART Master Salary Deferral 401(k) Plan ( approved by IRS on December 12, 1997 ) is the document governing the Plan.

6) NADART improperly distributed the funds under the Plan and breached their own governing Master Salary Deferral 401(K)/Profit

Sharing document.

7) NADART was fully aware of their Investment Choice Manager's, Jim Apistolas's letter dated March 14, 2000. The letter clearly stated the distribution of the funds under the Plan and inserted the Artice IX Section 9.12 of the Plan's Designation of Beneficiaries, he also sent out 5 IC-10 forms for benefits to be released that plaintiffs never received from Marie Washington.

8) Plaintiffs perfected their claims as they were advised to do so by their counsel Mr. Bolton. NADART never responded.

9) NADART has caused intentional, irreparable, tortuous injury to Plaintiffs; since the death of our father; Alfred Cash, Jr.

## VI. ISSUES OF LAW

The legal issue is whether NADART willingly and knowingly joined in and conspired to concealed pertinent information to the fraudulent beneficiary form; the subject form at hand, that defrauded Plaintiffs out of their rightful share of their fathers' Alfred Cash, Jr.'s 401k account plan held at NADART, that was governed by their Master Salary Deferral 401k Plan ( approved by IRS on December 12, 1997 ), that Defendant disregarded, violating Federal Criminal and Federal Civil Laws under ERISA. 18 U.S.C. Section 1349 (attempt and conspiracy), 18 U.S.C. Section 1027 ( fraud and false statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974 ). 18 U.S.C. Section 371( conspiracy to

commit offense ), 18 U.SC. Section 1016 (acknowledgment of appearance or oath), 18 U.S.C. Section 495 (contracts, deeds, and power of attorney ), 18 U.S.C. Section 1343 (wire fraud), 18 U.S.C. Section 471 (counterfeiting and forgery), 29 U.S.C. Section 1131 ( CRIMINAL PENALTIES ), 29 U.S.C. section 1132 (CIVIL PENALTIES ) (a)(1)(A)(B)(2)(3),(c)(1)(B)(A)(B)(2), (d)(1)(2), (f), (g)(1), (l)(1)(A)(B)(2)(B), (m), 29 U.S.C. Section 1133 (claims procedure), 29 U.S.C. Section 1025 (Duty of disclosure and reporting) (a)(1), 29 U.S.C. Section 1141 ( coercive interference ), 29 U.S.C. Section 1104 ( fiduciary duties ) (a)(1)(D), 29 U.S.C. Section 1105 liability for breach of co-fiduciary ) (a)(1)(2)(3), 29 U.S.C. Section 1109 ( liability for breach of fiduciary duty ) (a), 29 U.S.C Section 1113 ( limitation of fraud and

concealment ) (1)(2), 29 U.S.C. Section 1111 (if guilty persons prohibited from holding certain positions ) , 29 U.S.C. Section 1144 (other laws). The Court will be able to decide many, if not all, issues as a matter of law based on the undisputed evidence. Subject to the Court's deciding the issues as matters of law, the following issues will need to be determined by the jury:

(a) Has defendant breached their Plan ?

(b) Did defendant breach their fiduciary duty ?

(c) Did defendant follow their Master Salary Deferral 401(k)/Profit Sharing Plan?

(d) Was defendant negligent ?

(e) Was defendant actions fraudulent ?

(f) Was defendant actions concealing ?

(g) Did defendant take part in conspiracy ?

(h) Were defendant actions deceiving ?

(i) Did defendant defraud the Plaintiffs out

of their share of their father's 401 (K) Plan ?

(j) Did defendant have knowledge of the fraudulent beneficiary form ?

(k) Did defendant cover up pertinent information pertaining to the beneficiary form ?

(l) Did defendant improperly distribute the funds under the Plan?

(m) Have plaintiffs been damaged?

(n) Are plaintiffs entitled to recovery ?

(o) Plaintiffs are seeking special, exemplary and punitive damages as defendant inflicted upon plaintiffs tortuous misconduct in that defendant fraudulently misrepresented the beneficiary form

With the intent to deceiv plaintiffs, and did in fact deceive plaintiffs by defrauding plaintiffs out of their share of their father's, Alfred Cash, Jr.'s 401 (k)/Profit Sharing account. What is the amount if the jury finds in favor of plaintiffs, answer the following:

Plaintiffs are entitled to recover total damages of $_____(fill in the amount ).

## VII. WITNESSES

a. Plaintiffs' expert witness :

(1) Witness who will be present at trial :

Thomas Vastrick
6600 Stage Road, Suite-126-14
Memphis, Tennessee 38134
1-800-544-0004

Subject of testimony: Is a Forensic Document Examiner, who examined samples of Alfred Cash, Jr.'s handwriting

dating back 10 years and the Designation Of Beneficiary Form subject of the litigation and determined that the signature on the subject form was placed there fraudulently.

**b.** Plaintiffs' non-expert witnesses :

(1) Witnesses who may be present at trial:

James Apistolas
National Automobile Dealers Association
8400 Westpark Drive
McLean, Virginia 22102
703-821-7240

Subject of testimony: Was the Manager of Investment Choice Plans for NADART, Mr. Apistolas has information pertaining to the beneficiary form; he sent the letter dated March 14, 2000, indicating there was not a properly executed NADART beneficiary form and the proceeds of the subject plan would be distributed to decedent's five children.

Marilynn Ross
National Automobile Dealers Association
8400 Westpark Drive
McLean, Virginia 22102
703-821-7240

Subject of testimony: Is an attorney at NADART has information pertaining to the beneficiary form the subject form was faxed to the Probate Court, to Chris Thomas, Clerk Of The Court, from Mr. Apistolas, as the Court waited, because Mr. Wayne Williamson, Vice Pesident and General Manager at Schilling Lincoln Mecury stated to Honorable Judge Benham; he didn't have the beneficiary form with him or legal representation.

Mr. Williamson was to communicate the information of the May 02, 2000, proceeding to Jim Apistolas and Marilynn Ross and they (NADART) would contact us (Schilling) for further process (instructions).

Travis Anderson
National Automobile Dealers Association
8400 Westpark Drive
McLean, Virginia 22102
703-821-7240

Subject of testimony: Was the team leader, NADART Investment Choice has knowledge of the beneficiary form Mr. Anderson, is the one that informed Ms. Lisa Paton, Office Manager of Schilling Lincoln Mercury, that there was no social security number on this subject form and he was copied in on the letter from Mr. Apistolas letter dated March 14, 2000.

James C. Minnis
National Automobile Dealers Association
8400 Westpark Drive
McLean, Virginia 22102
703-821-7240

Subject of testimony: is the Director of Corporate Legal Affairs and has

knowledge of the beneficiary form as he was copied in on the Motion for the Order Authorizing NADART To Release Funds file stamped May 30, 2002.

Mark Weiss
National Automobile Dealers Association
8400 Westpark Drive
McLean, Virginia 22102
703-821-7240

Subject of testimony: Was NADART Manager, Benefits and Loans, has knowledge of the beneficiary form as he was copied in on the letter from Mr. Apistolas dated March 14, 2000.

Wayne Williamson
2600 South Mendenhall
Memphis, Tennessee 38115
Phone number unknown at this time.

Subject of testimony: Is the Vice President and General Manager of

Schilling Lincoln Mercury has knowledge of the beneficiary form as he presented the subject form at his deposition without the social security number on the beneficiary form and swore under oath that this subject form was the original beneficiary form.

Lisa Paton
6975 Ginwood Cove ( as of 12/2001)
Walls, Mississippi 38680
Phone number unknown at this time.

Subject of testimony: Ms. Paton was the Office Manager at Schilling Lincoln Mercury, where Alfred Cash Jr. worked and has knowledge of the designation of beneficiary form as she swore under oath that she added Mr. Cash's social security number on the subject form which was four days after his death.

Harry Smith
2580 Mt. Moriah
Memphis, Tennessee 38115
Phone number unknow at this time Subject of testimony: Is the Owner of Schilling Lincoln Mercury and has knowledge of the subject form and matters as Ms. Paton stated at her sworn deposition and he was also sent a letter from plaintiffs on July 3, 2001.

Steve Holden
U.S. Dept of Labor
Pension and Welfare Benefits Administration
1335 E. West Highway, Suite 200
Silver Spring, Maryland 20910

Subject of testimony: Mr. Holden received a fax from plaintiff in reference to NADART breach of fiduciary duty with Mr. Bolton Supplemental Memorandum of Law. Six pages in length along with Mr. Apistolas letter, Master Salary Deferral 401K Plan cover and page 29 of the plan and Mr. Williamson deposition

cover and condensed version 22, 23, 24 and 25, two pages and his deposition contained the two beneficiary forms he presented at his deposition, Lisa Paton deposition pertaining to the different handwriting on the beneficiary form that she admitted writing the social security number on along with other exhibits.

Kevin Cox
One Commerce Square
Seventeenth Floor
Memphis, Tennessee 38103
901-525-1322

Subject of testimony: was the attorney of Record for NADART and Schilling Lincoln Mercury as he was present at Mr. Williamson deposition and presented

the fraudulent beneficiary form to the court and has knowledge of this fraud.

Julian T. Bolton
The Cochran Firm
One Commerce Square
26th Floor
Memphis, Tennessee 38103
901-523-1222
Last known address and phone number

Subject of testimony: Was plaintiff attorney and has knowledge of this fraud.

Seymour Rosenberg
The Smart House
371 Carroll Avenue
Memphis, Tennessee 39105
901-527-4777

Subject of testimony: Was plaintiff attorney and has knowledge of this fraud.

Kenneth Margolis
One Hundred North Main St.
Suite 2601
Memphis, Tennessee 38103
901-405-3013

Subject of testimony: Was plaintiff attorney and has knowledge of this fraud and submitted initial disclosure to defendants from plaintiffs.

Eddie McLaurin
975 Enfield Road
Memphis, Tennessee 38109
No Phone number unknown at this time.

Subject of testimony: Is the Guardian and Uncle of Justin McLaurin who received the 401K proceeds and has knowledge of the letter sent from Mr. Apistolas. Mr. McLaurin received a letter from his attorney. Marlin Sellers Hobbs and Mr. McLaurin in turn gave copy of letter to plaintiff, Regina Cash.

James "Albert" Cash
8 Lydgate Avenue
Memphis, Tennessee 38109
No Phone number at this time

Subject of testimony: Has knowledge of the subject beneficiary form in question.

## VIII. DISCOVERY

Outside of the initial documents, already filed, in court by plaintiffs former attorney,

Kenneth Margolis and initial documents filed by NARDARTS' attorney: further discovery is needed.

## IX. ADDITION PRETRIAL DISCOVERY

**Plaintiff will need additional discovery documents from defendants as follows:**

**(a) Name, address, phone number of insurance company for NADART, so we can report fraud.**

**(b) How much money was paid to Justin McLarin for the 401K account?**

**(c) We need all supporting documentation, that you should have attached to Judge Robert Benham's Order releasing the funds to Marilynn Sellers Hobbs, attornery for Justin McLaurin.**

(d)Please provide a copy of the check paid to Justin McLaurin front and back.

(e) Provide all of the documentation of the 401k rollover account from First Tennessee.

(f) Provide all documentation with plan Setup with Schilling Lincoln Mercury and Alfred Cash, Jr.

(g) Provide plan enrollment date documentation for Alfred Cash, Jr.

(h) Provide plan documentation for Schilling Lincoln Mercury Company Matched contribution.

(i) Provide documentation for the amount of funds in 401k, profit sharing accounts for Alfred Cash, Jr.

**(j) Provide documentation for Alfred Cash, Jr. contribution amount to the plan.**

**(k) Please provide any and all documentation pertaining to Alfred Cash, Jr., and Schilling Lincoln Mercury account.**

Plaintiffs will enter all documents that was presented to the Court previously, as well as Audio recording of Mr. Apistolas, Mr. Bolton, maybe Mr. McLaurin, Mr. DeAndre of Nadart, video deposition of Mr. Williamson, letter to Mr. Smith, Owner of Schilling Lincoln Mercury that CC NADART, letter dated July 02, 2002, to Mr. Bolton referencing the 401(k), letter from Mr. Bolton to plaintiffs with attached Motion for Order Authorizing NADART to Release Funds showing

NADART was a no show at the hearing on January 10, 2002, but NADARTS' counsel Kevin Cox , **who by the way was also counsel for Schilling Lincoln Mercury, was copied in as well as Mr. Minnis, whose the Director of Legal Affairs in Virginia that's being copied in now; same Law Firm Glankler Brown just different attorneys**, letter Mr. Bolton dated August 20, 2002, referencing settlement conference as the Honorable Benham stated and recaption of what NADART needed to bring Plan document, Summary Plan Description, Trust Agreement setting up the Plan, if separate from plan, and any other instrument under which the Plan was established or is operated ; Plaintiffs were the only ones to comply, interested parties ; NADART/Schilling Lincoln

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Mercury never did, letter dated September 04, 2002, to Mr. Bolton requesting civil action filed against Schilling Lincoln Mercury and NADART, letter dated July 23, 2002, to Mr. Holden at the United States Department Of Labor explaining the conspiracy and concealment to continue covering up the Fraud with fax transmittal page attached, letter dated July 03, 2001, to Mr. Smith; Owner of Schilling Lincoln Mercury, informing him of the injustice in his establishment and plaintiffs copied in Mr. Brady, at NADART, attached with Certified Return Receipt Cards and postal receipts, fax cover from Ms. Griffs at First Tennessee to Ms. McElroy at the Cochran Firm, showing the requested information ; the attached balance of Mr. Alfred Cash's Profit Sharing account at Schilling as of 1/1/99.

## X. PENDING MOTIONS

There are no other motions other than the matters pending for considerations by the court except as follows: Defendants Motion For Summary Judgment and Plaintiff Response/Rebuttal To Defendants Motions for Summary Judgment.

## XI. STIPULATION

This court has jurisdiction of the parties and of the subject matter.

## XII. AMENDMENTS

Amendments are needed to pretrial order as information becomes disclosed.

## XIII. JURY SELECTION

Order and method of selection, of the jury will be selected or drawn, numbering of panel.

## XIV. TRIAL

It is estimated that this case will require five days for trial. This case will be tried before the court with a jury. This pretrial order may supersede the pleadings and govern the course of the trial of this cause unless modified to prevent manifest injustice.

## XV. ACTION BY THE COURT

This case is scheduled for trial before the Honorable Judge J. Daniel Breen and a jury on Monday, June 11, 2007, at 9:30 A.M. Courtroom 1, 11th floor of the Federal Building, Memphis, Tennessee.

DATED this _____ day of _____ 2007

_____ District Federal Judge

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Approved as to form and content.

_____

Pro Se Plaintiffs

_____

Attorney for the Defendant

Mr. & Mrs. Stamps
1595 Patrick Mill Place
Buford, Georgia 30518
770-831-7511